



Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

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Type: Bill (Ordinance) **Status:** Passed

File created: 3/8/2022 **In control:** Government Operations and Regulations Committee

On agenda: 6/21/2022 **Final action:** 6/21/2022

Title: An Ordinance to amend Chapter 9.30 of the Metropolitan Code of Laws pertaining to construction sites.

Sponsors: Colby Sledge, Freddie OConnell, Gloria Hausser, Erin Evans, Kathleen Murphy, Ginny Welsch, Joy Styles, Nancy VanReece, Zulfat Suara, Emily Benedict, Russ Bradford, Delishia Porterfield, Kyonzte Toombs

Indexes:

Code sections:

Attachments: 1. Substitute BL2022-1164, 2. Second Substitute BL2022-1164

| Date | Ver. | Action By | Action | Result |
|-----------|------|---|----------------------------|--------|
| 6/23/2022 | 3 | Mayor | approved | |
| 6/21/2022 | 3 | Metropolitan Council | passed on third reading | |
| 6/1/2022 | 3 | Metropolitan Council | reinstated | |
| 5/17/2022 | 3 | Metropolitan Council | deferred indefinitely | |
| 5/5/2022 | 3 | Metropolitan Council | passed on second reading | |
| 5/5/2022 | 2 | Metropolitan Council | substituted | |
| 5/5/2022 | 2 | Government Operations and Regulations Committee | approved with a substitute | |
| 4/19/2022 | 2 | Metropolitan Council | deferred | |
| 4/19/2022 | 1 | Metropolitan Council | substituted | |
| 4/5/2022 | 1 | Metropolitan Council | deferred | |
| 3/15/2022 | 1 | Metropolitan Council | passed on first reading | |
| 3/8/2022 | 1 | Metropolitan Council | filed | |

An Ordinance to amend Chapter 9.30 of the Metropolitan Code of Laws pertaining to construction sites.

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Section 9.30.010 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

9.30.010 - Construction sites-Restrictions.

It is unlawful for any person to engage in the outdoor construction, repair or demolition of buildings, structures, land, driveways, or appurtenances thereto, on any parcel located within or adjoining any of the following zoning districts: ~~permitting residential uses~~ AG, AR2a, RS, RS-A, R, R-A, RM, RM-A, RM-NS, RM-A-NS, SP, MUN, MUN-A, MUN-NS, MUN-A-NS, MUL, MUL-A, MUL-NS, MUL-S-NS, MUG,

MUG-A, MUG-NS, MUG-A-NS, MUI, MUI-A, MUI-NS, MUI-A-NS, OR, OR-A, OR-NS, OR-A-NS, ON, OL, OG, OG-NS, ORI, ORI-A, ORI-NS, ORI-A-NS, CN, CN-A, CN-NS, CN-A-NS, CL, CL-A, CL-A-NS, CA, CA-NS, CF, CF-NS, SCN, SCN-NS, SCC, SCC-NS, SCR, or SCR-NS, between the hours of 7:00 p.m. and 7:00 a.m., except that during the months of June, July, and August, the foregoing noise restriction shall be between the hours of 8:00 p.m. and 6:00 a.m. For the purposes of this section, "outdoor construction" means any construction activities occurring outside of an enclosed building. This provision shall not apply to activities necessary to mitigate safety or significant traffic concerns during the stated restriction hours such as concrete activities, utility and road work, hauling of large loads, and similar.

Section 2. That Section 9.30.030 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

9.30.030 - Variances.

A. Any person seeking to perform construction activities which would be in violation of Section 9.30.010 must, prior to engaging in activities prohibited under Section 9.30.010, make an application to the director of the department of codes administration and obtain a permit to perform such activities. Such a permit shall not be granted unless the applicant establishes the following:

1. Any outdoor construction will not interfere with normal activities conducted within the zoning district during the hours of the proposed construction activities; and
2. The applicant has obtained all other approvals and permits for said construction activities as required by the metropolitan code of laws; or
3. The overriding public interest (as opposed to the private interest of the applicant or the owner of the property upon which said construction activities shall occur) will be significantly promoted by permitting the applicant to engage in outdoor construction outside of the hours permitted in Section 9.30.010.

B. Notice of an application for a variance shall be given by the director of the department of codes administration to persons who may be adversely affected by the granting of the variance and to the district councilmember. Any person who claims to be adversely affected by such a variance, if allowed, may file a written statement with the director. Such statement shall contain sufficient factual information to support the claim.

C. Variances shall be granted by notice to the applicant containing any necessary conditions, including a time limit on the permitted activity. The variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to the requirements of Section 9.30.010.

Section 3. That this ordinance shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance, as substituted, amends Sections 9.30.010 and 9.30.030 of the Metropolitan Code of Laws regarding construction noise. Pursuant to the existing Metro Code section, construction noise cannot exceed

70 decibels between the hours of 7:00 p.m. and 7:00 a.m. During the months of June, July, and August, this standard applies between the hours of 8:00 p.m. and 6:00 a.m. The current provision applies only to construction sites located within or adjoining a residential zoning district and is measured from a point as close as possible to the outside walls of any residential structure located on the property affected by the noise at a height of four feet above the immediate surrounding surface.

The ordinance under consideration, as substituted, would change this provision to outdoor construction, repair, or demolition of parcels located within or adjoining the following zoning districts: AG, AR2a, RS, RS-A, R, R-A, RM, RM-A, RM-NS, RM-A-NS, SP, MUN, MUN-A, MUN-NS, MUN-A-NS, MUL, MUL-A, MUL-NS, MUL-S-NS, MUG, MUG-A, MUG-NS, MUG-A-NS, MUI, MUI-A, MUI-NS, MUI-A-NS, OR, OR-A, OR-NS, OR-A-NS, ON, OL, OG, OG-NS, ORI, ORI-A, ORI-NS, ORI-A-NS, CN, CN-A, CN-NS, CN-A-NS, CL, CL-A, CL-A-NS, CA, CA-NS, CF, CF-NS, SCN, SCN-NS, SCC, SCC-NS, SCR, or SCR-NS. This restriction would not apply to activities necessary to mitigate safety or significant traffic concerns during the stated restriction hours such as concrete activities, utility and road work, hauling of large loads, and similar.

This prohibition would apply during the same time periods as outlined in the current noise provision. Additionally, the variance procedures would be updated to replace references to the noise provision and make clear that the variance would be for outdoor construction hours.