



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2023-1884, **Version:** 1

An ordinance codifying an updated version of BL2019-78, providing that non-owner-occupied short term rental properties be located at a minimum distance from churches, schools, daycares and parks, which ordinance was approved during a Council session in which the section of the Metropolitan Code to be amended by that ordinance was simultaneously moved to another title in the Code, rendering BL2019-78 un-codifiable.

WHEREAS, the Metropolitan Council approved BL2019-78, an ordinance restricting non-owner-occupied short term rental properties within one hundred feet of churches, schools, parks, playgrounds, and daycare centers, on July 8, 2020, and it became effective on July 10, 2020; and

WHEREAS, the Metropolitan Council on July 8, 2020 also approved BL2020-187, an ordinance that effectively moved the short term rental property ordinances from title 17 to title 6, by repealing the prior short term rental ordinances and creating a new section 6.28.030 that addresses both owner occupied and non-owner-occupied short term rental permits and related issues; and

WHEREAS, BL2019-78 was passed before BL2020-187 during the same Metropolitan Council meeting, a fact that reflects that the Council wished to codify both ordinances, however, BL2019-78 could not be codified because it amended a section of the code that had been repealed and moved under BL2020-187; and

WHEREAS, the Metropolitan Council now wishes to codify BL2019-78 as it originally intended to do in July 2020; and

WHEREAS, in doing so the Metropolitan Council also wishes to clarify the language in the amendment to BL2019-78, which exempted certain properties then under development from the ordinance; and

WHEREAS, in doing so the Metropolitan Council also wishes to omit language in BL2019-78 that conflicts with state law, regarding the ordinance's applicability to properties whose permits have lapsed; and

WHEREAS, the reasons for passing BL2019-78 are the same now as they were in July 2020; and

WHEREAS, NashvilleNext supports creating and preserving walkable places for Nashville residents, with a special emphasis on making Nashville's neighborhoods safe, accessible, and welcoming for families so that they provide opportunities for play, learning, and social engagement that help children and youth thrive; and

WHEREAS, Section 7.08.090 of the Metropolitan Code prohibits the issuance of a retail beer permit for any establishment located within 100 feet of a church, school, daycare, or park unless the Council approves a waiver from the minimum distance requirements upon the adoption of a resolution with 21 affirmative votes after holding a public hearing; and

WHEREAS, the purpose of the distance requirements in Section 7.08.090 is to address the negative secondary effect associated with the sale and consumption of beer near churches, schools, daycares, and parks; and

WHEREAS, the Metropolitan Council has heard concerns from the public on numerous occasions (see the January 3, 2017 public hearing regarding Ordinance No. BL2016-492, and the May 2, 2017 public hearing regarding Ordinance No. BL2017-608), about the negative secondary effects associated with the operation of not-owner-occupied short term rental properties in Nashville and Davidson County, including public

intoxication, lewdness, and excessive noise; and

WHEREAS, it is in the interest of the health, safety, and welfare of the people of Nashville and Davidson County to codify and clarify BL2019-78.

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

Section 1. That the Metropolitan Code of Laws shall be amended by adding a new section 6.28.030(B)(2)(d):

d. Minimum distance requirements:

i. No new STRP permit shall be issued to an applicant whose location is less than one hundred feet from a religious institution, a school or its playground, a park, or a licensed day care center or its playground. Distance shall be measured in a straight line from the closest point of the parcel line of the property for which a STRP is sought to the closest point of the parcel line of the property on which the religious institution, school or its playground, park, or licensed daycare center or its playground is located.

ii. Notwithstanding subsection (d)(i) of this section, a STRP permit applicant may be exempt from the minimum distance requirements set forth herein upon the adoption of a resolution, after a public hearing, by the metropolitan council receiving 21 affirmative votes approving the exemption of the STRP unit from said minimum distance requirements. The department of codes administration shall notify the councilmember for the district in which the applicant unit is located in writing within five business days from the date the application is filed requesting the waiver of distance requirements. The public hearing required by this subsection shall be conducted by the council at a regular meeting of the council. Public notification of the hearing shall be conducted pursuant to the public notice requirements for amendments to the official zoning map in accordance with Article XV of Chapter 17.40 of the metropolitan code, provided that notice by mail shall be sent to all property owners within 600 feet of the unit seeking the exemption from the minimum distance requirements not later than 14 days prior to the scheduled public hearing on the resolution. Further, a public notice sign meeting the general requirements of Section 17.40.730 of the metropolitan code shall be posted on the property of the applicant seeking the exemption from the minimum distance requirements at least 14 days prior to the scheduled public hearing. The costs for the public notification requirements shall be paid by the applicant. The applicant shall coordinate the scheduling of the public hearing with the metropolitan clerk's office prior to the filing of the resolution for purposes of including the date and time of the public hearing in the public notice to be mailed.

iii. Otherwise qualifying properties under active development in 2020, either with a valid master permit on file with the department of codes administration on or before September 1, 2020, or who completed at least fifty percent construction on a new unit as of September 1, 2020, are not subject to the provisions of this subsection d, provided that any qualifying unit for which a prior non-owner occupied STRP permit lapsed will be subject to the provisions of this subsection d.

Section 2. That this ordinance shall take effect from and after its adoption and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance re-codifies the provisions of Ordinance No. BL2019-78 into Section 6.28.030 of the Metropolitan Code. BL2019-78 restricts non-owner-occupied short term rental properties from being located within one hundred feet of churches, schools, parks, playgrounds, and daycare centers and was approved by Council on July 8, 2020. However, at that same meeting, the Council also approved BL2020-187, which relocated most short term rental property regulations from Title 17 to Title 6, resulting in BL2019-78 not being codified.

The ordinance under consideration adds the provisions of BL2019-78 into Title 6 of the Metropolitan Code.