



Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

File #: BL2021-842 **Name:**

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

File created: 7/26/2021 **In control:** Metropolitan Council

On agenda: 11/16/2021 **Final action:** 11/16/2021

Title: An ordinance amending Chapter 16.28 and Section 17.40.430 of the Metropolitan Code to amend the regulations of the demolition of potentially historic structures and sites (Proposal No. 2021Z-015TX-001).

Sponsors: Tom Cash, Delishia Porterfield, Kathleen Murphy, Joy Styles, Russ Bradford, Jeff Syracuse, Tonya Hancock, Brandon Taylor

Indexes:

Code sections:

Attachments: 1. BL2021-842, 2. Substitute BL2021-842, 3. Amendment No. 1 to Substitute BL2021-842

Date	Ver.	Action By	Action	Result
11/26/2021	3	Metropolitan Council	effective	
11/17/2021	2	Mayor	approved	
11/16/2021	2	Metropolitan Council	passed on third reading	
11/16/2021	1	Government Operations and Regulations Committee	approved with an amendment	
11/15/2021	1	Planning and Zoning Committee	approved with an amendment	
11/2/2021	2	Metropolitan Council	passed on second reading	
10/28/2021	1	Planning Commission	approved	
10/5/2021	1	Metropolitan Council	substituted	
10/5/2021	1	Metropolitan Council	public hearing	
10/5/2021	1	Metropolitan Council	deferred	
9/10/2021	1	Metropolitan Council	advertised	
8/3/2021	1	Metropolitan Council	passed on first reading	
7/27/2021	1	Metropolitan Council	filed	

An ordinance amending Chapter 16.28 and Section 17.40.430 of the Metropolitan Code to amend the regulations of the demolition of potentially historic structures and sites (Proposal No. 2021Z-015TX-001).

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

Section 1. That Section 16.28.190 of the Metropolitan Code is hereby amended by deleting it in its entirety and replacing it with the following:

16.28.190 - Issuance.

If the application for a permit under this chapter and the drawings filed therewith describe work which does not conform to the requirements of this chapter or other pertinent laws or ordinances, the director of codes administration shall not issue a permit, but shall return the drawings to the applicant with their refusal to

issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons therefore.

Section 2. That Chapter 16.28 of the Metropolitan Code is hereby amended by creating Section 16.28.195 as follows:

16.28.195 - Issuance of permits for the demolition of historic structures and sites.

- A. When the department of codes administration receives an application for a demolition permit for a structure which, individually or as part of a group of structures, is listed or is eligible for listing on the National Register of Historic Places, or meets the criteria of T.C.A. § 7-51-1201 as determined by the historic zoning commission, but is not included in a historic overlay district, the director of codes administration shall not issue a demolition permit for the structure until the executive director of the historical commission approves the demolition permit. The executive director must take action on the demolition permit within 90 days of the permit application, unless a longer period is agreed upon by the applicant and the executive director. The department of codes administration shall provide notice by email to the district councilmember representing the district in which the historic structure is located within two business days after the application for the demolition permit has been filed.
- B. Prior to the issuance of a demolition permit or a building permit where a portion of the structure is proposed to be removed for a structure ~~which, individually or as part of a group of structures, is listed or is eligible for listing on the National Register of Historic Places, meets the criteria of T.C.A. § 7-51-1201 as determined by the historic zoning commission, and/or~~ that is included in a historic overlay district, the responsible contractor and any subcontractor shall submit signed affidavits that they have reviewed the permit to be approved including any related preservation permit and understand the limits of the demolition work to be done.
- C. The following requirements shall be satisfied prior to the issuance of a demolition permit for a residential structure that was originally constructed before 1865:
1. The property owner or the owner's agent applying for a demolition permit for a residential structure that was originally constructed before 1865 shall, with the application for the permit, present to the director of codes administration and the executive director of the Metropolitan Historical Commission at least two reports, each prepared by a qualified historic restoration consultant, stating the following:
 - a. The name and qualifications of the person making the report.
 - b. The condition of structural elements of the building proposed to be demolished. Such report should include an assessment of damage or decay, if any, to foundations, flooring, floor supports, walls and other vertical supports, ceilings, roofs and their support systems and other horizontal elements, fireplace, chimneys, exterior cladding and other exterior elements that may affect structural integrity, windows, window frames and doors and/or any fault, defect or condition that might affect the structural integrity or the water-tightness of the building.
 - c. An estimated cost of repair for those item(s) identified in the structural report as damaged or decayed and which affect the structural integrity of the structure.
 - d. A valuation from a qualified historic properties real estate appraiser of the building(s) proposed to be demolished.
 2. For purposes of subsection C.1., the following definitions shall apply:
 - a. "Qualified historic restoration consultant" is defined as a professionally licensed architect or general contractor with a specialty in historic buildings, i.e., one who has worked directly on the rehabilitation or restoration of historic buildings for a minimum of ten years and/or a minimum of 15

long-term (lasting six months or more) historic building projects. The consultant shall provide a list of qualifying historic projects, detailing their scope, budget, the consultant's scope of involvement, specific historic issues/challenges, date of completion, and client contact information. The MHZC will determine whether the consultant meets these criteria.

- b. "Qualified historic properties real estate appraiser" is defined as an individual who has a minimum of five years of professional experience working as a real estate appraiser, specifically including the valuation of historic property, buildings, and their appurtenances. For these purposes, "historic" shall be defined as 100 years old and older. The appraiser shall provide a listing of historic properties evaluated, with accompanying date of service and client contact information. The MHZC will determine whether the consultant meets these established criteria.
3. Upon receipt of the demolition permit application, the metropolitan historic zoning commission shall, at a scheduled public hearing, make the determination as to whether or not the structure meets the criteria of T.C.A. § 7-51-1201. If the historic zoning commission determines that the structure at issue meets the criteria of T.C.A. § 7-51-1201, it shall initiate legislation to allow the metropolitan council the opportunity to approve or disapprove the demolition in accordance with T.C.A. § 7-51-1201 et seq.

Section 3. That Section 17.40.430 of the Metropolitan Code is hereby amended by deleting it in its entirety and replacing it with the following:

17.40.430 - Moratorium For proposed historic overlay districts.

There shall be a moratorium period on the granting of permits for demolition, relocation, new construction, exterior alterations, additions to structures or improvements on land recommended for designation as a historic overlay district. The moratorium period shall begin with the filing of an ordinance to designate an historic overlay district and end once the ordinance establishing the overlay district has been approved, rejected, withdrawn, deferred for a total amount of time equaling 90 days, or indefinitely deferred by the Metropolitan Council.

Section 4. That this Ordinance shall take effect five (5) days from and after its passage 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, as substituted, amends Section 16.28.190 and creates a new Section 16.28.195 to separate out historic demolition permits from other building permits and to require any contractor or subcontractor involved in the demolition or partial demolition of a historic structure as defined within the ordinance to submit an affidavit stating that they understand the building or demolition permit to be approved, as well as the limits of the demolition work to be done.

This ordinance, as substituted, would also amend Section 17.40.430, which currently sets a 90-day moratorium period on the granting of permits for demolition, relocation, new construction, exterior alterations, additions to structures or improvements on land recommended for designation as an historic landmark district. The moratorium begins with the filing of an ordinance to designate a historic landmark district. This ordinance would expand the moratorium to cover all pending historic overlay, as well as extend the time period of the moratorium to end once the ordinance establishing the overlay district has been approved, rejected, withdrawn, deferred for a total amount of time equaling 90 days, or indefinitely deferred by the Metro Council.

This is scheduled for the October 28 meeting of the Planning Commission.