



Metropolitan Nashville and Davidson County, TN

Legislation Text

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An ordinance amending Title 10 of the Metropolitan Code of Laws to adopt the 2018 National Fire Prevention Association NFPA 1 Fire Code, as amended, for use throughout the Metropolitan Government, and the 2018 NFPA 101 Life Safety Code, as amended, for certain occupancies.

WHEREAS, Tennessee Code Annotated § 68-120-101 allows local governments to adopt either the International Fire Code, published by the International Code Council, Inc., or the NFPA 1 Fire Code, published by the National Fire Protection Association, Inc., provided the local government certifies to the state fire marshal that it is adequately enforcing such code; and,

WHEREAS, the applicable codes for fire, building, dwelling, energy, gas/mechanical, and plumbing standards are updated by international bodies on a periodic basis; and,

WHEREAS, such updates are adopted by the Metropolitan Council into the Metropolitan Code of Laws as the governing standards for Davidson County, Tennessee; and,

WHEREAS, the amendment of these sections of Metropolitan Code of Laws § 10 and 16 is in the best interests of the citizens of Nashville and Davidson County.

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

Section 1. Chapter 10.64 of the Metropolitan Code is hereby amended by deleting Section 10.64.010 in its entirety and substituting in lieu thereof the following new section:

10.64.010 Fire Prevention Code adopted.

The Metropolitan Government adopts the 2018 edition of the NFPA 1 Fire Code, as amended in this chapter, published by the National Fire Protection Association, save and except those portions such as deleted, modified or amended below, to be applicable throughout the city. A copy of the NFPA 1, is attached to the ordinance codified in this section and hereof, the same as if copied verbatim herein. The NFPA 1 Fire Code, as amended shall be known as the Metropolitan Fire Prevention Code. The following annexes of the fire code adopted by this Section are hereby included as a part of the city's adopted fire code, save and except those portions which are deleted, modified or amended by section 3. Annex A, Explanatory Material; Annex B, Hazardous Materials Classifications; Annex D, Hazardous Materials Management Plans, HMIS; Annex F, Fire Fighter Breathing-Air Replenish Systems

Section 2. Chapter 10.64 of the Metropolitan Code is hereby amended by adding Section 10.64.011:

10.64.011 Enforcement of county-wide emergency health orders.

Notwithstanding any other provision of this title, it is a condition of any permit or work authorization issued pursuant to the authority granted herein, including those issued prior to the effective date hereof, that the permittee and its employees abide by applicable laws, rules,

regulations and orders, including without limitation those emergency orders issued by the Chief Medical Director in connection with a declared state of emergency in all or part of Davidson County. Employees of a department that has authorized work or issued a permit pursuant to this title may order the cessation of work or specific activities, or the suspension of a permit, on any work site operating under such permit, for a violation of an emergency order.

Notice of the stop work order shall be in writing and shall be given to the owner of the property or to his agent or to the person in charge of the work or overseeing the operation. When, in the opinion of the director of the department that authorized work or issued a permit, or the director's agent, that an emergency exists, a written stop work order shall not be required, and in such instances, oral notice to the owner, his agent or the person in charge of the work shall have the same force and effect as a written order. Any violation of the stop work order shall be assessed as a civil penalty at the rate of fifty dollars per day. In addition, where a violation exists, the director of the department or the director's agent may request that utility service be curtailed until the violation is corrected or abated. Appeals from the stop work order may be made to the relevant board or commission that oversees the authorization of the work or issuance of the permit."

Section 3. Chapter 10.64 of the Metropolitan Code is hereby amended by deleting Section 10.64.012 in its entirety and substituting in lieu thereof the following new section 10.64.012:

10.64.012 Amendments to the 2018 NFPA 1 Fire Code.

The following amendments, deletions, or additions to the 2018 NFPA 1 Fire Code thereto are adopted by reference, as fully as though copied into the Metropolitan Fire Prevention Code, and thereby made a part of the Metropolitan Fire Prevention Code.

A. Section 1.7.3 is amended by adding the following subsection:

1.7.3.3 The provisions of this code do not apply to one and two-family dwellings and the construction, normal use, or maintenance thereof.

B. Section 1.10.1 is amended by adding the following language at the end of said section: Any reference to the board of appeals shall mean the Metropolitan Board of Fire and Building Code Appeals.

C. Section 1.12 is amended by adding the following subsection:

1.12.2.5 Permit fees shall be established from time to time by the Fire Marshal and approved by the Metro Council, taking into consideration the costs incurred with issuance of the permits and required inspections thereunder.

D. Table 1.12.8(a) is hereby amended by adding the following additional language in Private Fire Hydrants, "Use" and "Testing"

E. Section 2.1 is amended to omit the following referenced publications:

NFPA 120, Standard for Fire Prevention and Control in Coal Mines, 2015 edition; 2018 edition; and NFPA 5000, Building Construction and Safety Code™, 2018 edition.

F. Section 3.3.14.3 is amended by deleting the section and substituting in lieu thereof:

Fire Area. An area of a building separated from the remainder of the building by construction having a fire resistance rating of 2 hours and having all communicating openings properly protected by an assembly having a fire resistance rating of at least 2 hours.

G. Section 13.3.2.20 is deleted.

H. Section 13.3.3 is amended by deleting the subsection 13.3.3.4.1.5.2 and substituting in lieu thereof:

Section 13.3.3.4.1.5.2 Corrections and repairs shall be performed by an approved sprinkler contractor licensed by the state of Tennessee.

I. Section 13.5 is amended by adding the following subsection:

13.5.3.2 Backflow prevention devices on automatic fire extinguishment systems shall be serviced by an approved sprinkler contractor licensed by the state of Tennessee.

J. Section 18.2.3.2.2.1 is amended by deleting and substituting the following in lieu thereof: When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 250 ft with approval by the AHJ.

K. Section 18.2.3.3 is amended by adding a new subsection 18.2.3.3.1; Remoteness. Where two fire department access roads are required, they shall be placed a distance apart equal to not less than one half the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between access roads.

L. Section 18.2.3.3 is amended by adding a new subsection 18.2.3.3.1; New residential developments of one- and two- family dwellings with more 49 dwelling units shall provide two separate and remote fire department access roads.

Exception 1: New residential developments with less than 100 one and two-family dwellings may be served by one fire apparatus access road when all dwellings are equipped with an approved automatic sprinkler system.

M. Section 18.2.3.3 is amended by adding a new subsection 18.2.3.3.2; New residential developments of multi-family dwellings, apartments and townhouses with more than 100 dwelling units shall provide two separate and remote fire department access roads.

Exception 1: New residential developments of multi-family dwellings, apartments and townhouses with less than 200 dwelling units may be served by one fire apparatus access road where all dwellings are equipped with an approved automatic sprinkler system.

N. 18.2.3.5.1.1 is amended by adding the following additional language: Fire department access roads shall have an unobstructed width of not less than 20 ft. (6.1 m) except where the following applies:

(1) Aerial fire apparatus access roads in the immediate vicinity of the building shall have an unobstructed width of not less than 24 ft. (7.3m) with a minimum setback of 15 ft. (4.5) and a maximum setback of 30 ft. (9.1m) to the building.

(2) Aerial fire apparatus access roads shall be positioned parallel to the entire longest side of the building. The AHJ shall determine which side and location(s) of the required access road.

(3) Overhead utility lines or other obstructions shall not be located over aerial fire apparatus access roads or between the fire apparatus access and the building.

O. 18.2.3.5.1 is amended by adding a new subsection 18.2.3.5.1.1.3; Where the vertical distance between the lowest level of fire department access and the highest roof surface exceeds 30 feet, approved aerial fire apparatus access roads in accordance with 18.2.3.5.1.1 shall be provided. The highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of parapet walls and railings, whichever is greater.

P. Section 18.5.2 Detached One- and Two-family Dwellings, subsection (1) is amended by deleting "600 ft. (183 m)" and substituting " 500 ft. (152 m)".

Q. Section 18.5.3 Buildings other than Detached One- and Two-Family Dwellings, subsection (1) is amended by deleting "400 ft. (122 m)" and substituting " 500 ft. (152 m)".

R. Section 60.1.1. is amended by adding the following language at the end of said section: In addition, the following restrictions shall apply within the city:

(1) No person shall operate or park any vehicle carrying hazardous materials in a residential zoned area within the corporate limits of Nashville and Davidson County at any time, except for the purpose of and while actively engaged in the expeditious and lawful delivery of hazardous materials.

(2) This chapter shall apply to materials not otherwise covered in this code which are highly flammable, or which may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of the toxicity, flammability or liability to explosion render firefighting abnormally

dangerous or difficult; also the flammable or combustible liquids which are chemically unstable and which may spontaneously form explosive compounds or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous materials shall include flammable solids, flammable and combustible liquids, corrosive liquids, poisonous gases or highly toxic, radioactive, oxidizing, unstable or reactive, hypergolic or pyrophoric materials; also, any substance or mixture of substances which is an irritant or a strong sensitizer, or which generates pressure through exposure to heat, decomposition or other means.

S. Section 65.1 is amended to add the following subsection:

65.1.3 Nothing in this Section shall be construed as applying to:

- (1) The possession, transportation and use of small arms ammunition.
- (2) The possession, storage, transportation and use of not more than one pound of black sporting powder, 20 pounds of smokeless powder, and 2,000 small arms primers for hand loading of small arms ammunition for personal use.
- (3) The possession, storage, transportation and use of explosives or blasting agents by the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service, or police and fire departments acting in their official capacities.

T. NFPA 101, Life Safety Code, 2018 edition, incorporated by reference in chapter 2 of the 2018 edition of NFPA 1 is amended in the following respects: Chapter 24 is deleted.

Section 4. Chapter 10.64 of the Metropolitan Code is hereby amended by adding the following new Section 10.64.013:

10.64.013 - Issuance of permits.

Before permits may be issued as required by this Section and the codes, annexes and appendixes adopted by this Section, the fire chief or a delegate shall inspect and approve the receptacles, processes, vehicles, buildings or storage places to be used for any such purposes.

Section 5. Chapter 10.64 of the Metropolitan Code is hereby amended by adding the following new Section 10.64.014:

10.64.014 Application.

The provisions of this Section and the codes and appendixes adopted by this Section shall apply equally to both public and private property, and to all structures and their occupancies, except as otherwise specified. The provisions of the fire code adopted by this Section shall govern the manner in which:

- A. The codes are applied to new commercial and service institutional construction and existing commercial and service institutional buildings.
- B. Occupancies and types of construction are classified for the purpose of determining minimum code requirements.
- C. The specific requirements of the codes may be modified to permit the use of alternate materials or methods of construction.

Section 6. Chapter 10.64 of the Metropolitan Code is hereby amended by deleting Section 10.64.015 in its entirety and substituting in lieu thereof the following new section 10.64.015:

10.64.015 - Hazardous substances.

A. Definitions. As used in this section, the following terms shall be defined as follows:

Costs mean those necessary and reasonable costs incurred by the city in connection with investigating, mitigating, minimizing, removing or abating discharges of hazardous

substances, including, but not limited to, the following: actual labor costs of city personnel or its authorized agents; cost of equipment operation and rental; and cost of expendable items including, but not limited to, firefighting foam, chemical extinguishing agents, absorbent material, sand, recovery drums, acid suits, acid gloves, goggles and protective clothing.

Discharge means any intentional or unintentional action or omission resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance upon public or private property located within the city limits.

Hazardous substances mean any substances or materials in a quantity or form, which, in the determination of the fire chief or his authorized designee, poses an unreasonable and imminent risk to the life, health, safety or welfare of persons or property within the city, and shall include, but not be limited to those hazardous substances listed in the N.F.P.A. Guide on Hazardous Materials or the E.P.A.'s list of extremely hazardous substances.

Person means one or more individuals, partnerships, corporations, joint ventures, associations or any other entities or any combination thereof.

B. Fire department's authority. The fire department is hereby authorized to take such steps as necessary to clean up, remove or abate the effects of any hazardous substances discharged upon or into public or private property or facilities located within the limits of the city.

C. Persons responsible for unauthorized discharges to be liable to the city fire department. Any person responsible for causing or allowing an unauthorized discharge of hazardous substances that requires emergency action of the city's fire department or its authorized agents in order to protect the public health, safety or welfare shall be jointly and severally liable to the city for the costs incurred by the city in investigating, mitigating, minimizing, removing and abating any such discharge.

D. Fire department to keep records of cleanup costs. When responding to the emergency caused by the unauthorized discharge of hazardous substances, the city's fire department shall keep a detailed record of the costs attributable thereto.

E. Unlawful dischargers to reimburse city for cleanup costs. Any person responsible for causing or allowing an unauthorized discharge of hazardous substances shall reimburse the city for the full amount of all costs, as defined herein, associated with investigating, mitigating, minimizing, removing and abating any such discharge within a period of 30 days after receipt of an itemized bill for such costs from the city.

F. Penalty for late payment of cleanup costs. Any person responsible for causing or allowing an unauthorized discharge of hazardous substances and who fails to promptly reimburse the city within the time set forth in subsection (f) of this section shall be subject to a penalty payment equal to five percent of the total amount of the bill for each month that the bill for such costs remains unpaid.

G. Remedies supplemental to other remedies. The remedy provided for in this section shall be supplemental to and in addition to all other available remedies at law and equity.

Section 7. Chapter 10.64 of the Metropolitan Code is hereby amended by deleting Section 10.64.016 in its entirety and substituting in lieu thereof the following new section 10.64.016:

10.64.016 - Penalty.

Any person who shall violate any of the provisions of the codes and appendixes adopted by this Section; or shall fail to comply therewith; or shall violate or fail to comply with any order made thereunder; or shall build in violation of any details, statements, specifications or plans submitted or approved thereunder; or shall operate not in accordance with the provisions of any certificate, permit or approval issued thereunder, and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by the fire chief or by a court of competent

jurisdiction within the time fixed herein shall severally for each and every violation and noncompliance, respectively, be penalized by a civil penalty as provided for in section 1.24 of the Metropolitan Code of Ordinances. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 8. Chapter 10.64 of the Metropolitan Code is hereby amended by deleting Section 10.64.017 in its entirety and substituting in lieu thereof the following new section 10.64.017:

10.64.017 - Open Burning

It is the intent and purpose of this Section to protect the citizens of Nashville from injury arising from hazards and public nuisances and to reduce the accidental spread of fire for the benefit of the health, safety, general welfare and physical property of the people. The city shall seek the accomplishment of these objectives through the regulation of open burning as adopted and set forth herein.

A. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air curtain destructor or air curtain incinerator means a portable or stationery combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain.

Cooking Fire means the noncommercial, residential burning of materials not exceeding 3 ft (0.9 m) in diameter and 2 ft (0.6 m) in height, other than rubbish in which the fuel burned is contained in an outdoor fireplace, a barbecue grill, or a barbecue pit for the purpose of preparing food.

Fire Marshal means the duly appointed fire marshal or acting fire marshal of the city.

Open burning means the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack.

Recreational Fire means the noncommercial burning of materials other than rubbish for pleasure, religious, ceremonial, cooking, or similar purposes in which the fuel burned is not contained in an incinerator, a barbecue grill, or a barbecue pit, and the total fuel area is not exceeding 3 ft (0.9 m) in diameter and 2 ft (0.6 m) in height.

B. Open burning prohibitions and restrictions. No open burning shall be allowed unless a permit is first obtained from the fire marshal, except that no permit shall be required for:

(1) Outdoor fireplaces or outdoor noncommercial food preparation; provided that the use of an outdoor fireplace or a portable charcoal or gas barbecue grill shall be prohibited within ten feet of any structure in which more than two dwelling units are located.

(2) The burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials and/or asbestos containing materials is expressly prohibited, and such materials shall not be included in any open burning conducted under the provisions of this Section. Furthermore, burning for the purpose of disposing of construction or demolition waste or debris not otherwise described herein is expressly prohibited, and such waste or debris shall not be included in any open burning conducted under the provisions of this Section.

(3) Burning for the purpose of clearing vegetation from land for new development or a change in the use of the land shall be permitted only if:

(a) The burning will take place at least 500 feet from any occupied building,

- roadway, walkway or any other location as may be specified by the fire marshal.
- (b) The materials to be burned consist solely of vegetation grown on the property containing the burn site.
 - (c) The materials to be burned are placed in a pit and an air curtain destructor or air curtain incinerator is used.
 - (d) Priming materials used to facilitate such burning are limited to #1 or #2 grade fuel oils.
 - (e) The burning occurs between the hours of 7:00 a.m. and dark.
- (4) Burning for the purpose of disposing of detached tree limbs and leaves shall be permitted only if:
- (a) The burning will take place at least 300 feet away from any adjacent lot or tract with a residential dwelling or other occupied structure.
 - (b) The materials to be burned consist solely of leaves and limbs gathered from the property containing the burn site.
 - (c) The materials to be burned are placed in a pit and an air curtain destructor or air curtain incinerator is used, if the fire marshal has instructed that an air curtain destructor or air curtain incinerator is to be used, based on the size and location of the burn and other relevant safety issues.
 - (d) Priming materials used to facilitate such burning are limited to #1 or #2 grade fuel oils.
 - (e) The burning occurs between the hours of 9:00 a.m. and 3:30 p.m.
- (5) An application for a bonfire permit for a special event must be submitted to the fire marshal at least ten calendar days prior to the event and must identify the location and describe the type of materials to be used in the bonfire. Prior to approval of the permit, the fire marshal or the fire marshal's representative may inspect the location and may condition the issuance of the bonfire permit on the use of specified materials and prescribed safety measures. The fire marshal or the fire marshal's representative may revoke the bonfire permit before or during the bonfire if the fire marshal or the fire marshal's representative has reason to believe the bonfire will not be adequately supervised, or if weather or other conditions on the day of the bonfire pose a significant public health or safety risk.
- (6) Neither the exceptions allowed hereunder nor the granting of a permit for open burning shall relieve any person of liability for injuries or damage caused by such open burning, nor shall an exception or permit relieve any person of the responsibility to obtain any other permit required by any other agency, or of complying with other applicable requirements, ordinances, statutes or restrictions.
- (7) In the event a permitted fire is determined by the fire marshal or the fire marshal's representative to be a nuisance to adjacent property owners or occupants or to the public at large, the fire marshal or the fire marshal's representative shall order the permit holder to extinguish the fire immediately or, if necessary, the fire department may extinguish the fire.
- (8) The fire marshal or the fire marshal's representative along with the Director of Public Health may order all open burning temporarily stopped at any time due to weather conditions or other environmental conditions which may cause open burning to pose a significant public health or safety risk.

Section 9. This ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance adopts the 2018 editions of the National Fire Prevention Association NFPA 1 Fire Code, as amended, and the NFPA 101 Life Safety Code, as amended. Copies of the new editions of the standard codes are on file with the Fire Department. Metro is required by state law to keep our codes current within seven years of the latest published edition of the model codes. Metro is currently operating under the 2012 edition of the fire and life safety codes. The various building and fire codes are typically adopted at the same time to avoid conflicts between the codes. The Council adopted the 2018 edition of the International Building Code (IBC), the International Residential Code (IRC), and the International Energy Conservation Code (IECC) in November 2020 pursuant to Ordinance No. BL2020-458.

Metro typically also adopts some amendments to the standard codes that are local in nature, which are included as part of this ordinance. The local amendments are basically in keeping with prior code adoptions to make the code consistent with state law and Metro's processes.