



# Metropolitan Nashville and Davidson County, TN

## Legislation Text

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**File #:** BL2021-718, **Version:** 2

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An ordinance to amend Title 2 of the Metropolitan Code, Chapter 2.76 related to the Board of Electrical Examiners and Appeals, 2.84 related to the Board of Gas/Mechanical Examiners and Appeals, and 2.92 related to the Board of Plumbing Examiners and Appeals.

WHEREAS the Board of Electrical Examiners and Appeals, the Board of Gas/Mechanical Examiners and Appeals, and the Board of Plumbing Examiners and Appeals Board are independent boards that hear applications for licenses, appeals from orders of the director of codes administration, and applications to vary provisions of the Metro Code chapters 16.16, 6.52, 16.12, 6.20, and 16.20; and

WHEREAS the codes applicable to these boards (International Code Council (ICC) and the National Electrical Code (NEC)) have become more standardized thus reducing the number of appeals any one board hears; and

WHEREAS these boards should be combined for a more effective and uniform consideration of appeals related to these trades.

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

Section 1. That Title 2 of the Metropolitan Code is hereby amended by deleting Sections 2.76, 2.84, and 2.92 in their entirety, thereby abolishing the existing boards of Electrical Examiners and Appeals, Gas/Mechanical Examiners and Appeals, and Plumbing Examiners and Appeals and terminating the terms of the existing board members.

Section 2. That Title 2 Section 2.76 of the Metropolitan Code is replaced with the following:

### 2.76.010 - Created

A Board of Mechanical, Plumbing, and Electrical Examiners and Appeals is created.

### 2.76.020 - Appointment and qualifications of members and term of office

A. The board shall consist of nine members who shall have been residents of Nashville and Davidson County for not less than one year. The mayor shall appoint, reappoint, or replace members of the nine-member board, subject to confirmation by a majority vote of the Metropolitan Council. The board shall be composed of the following:

1. One licensed Metropolitan/State gas/mechanical contractor
2. One union, licensed Metropolitan/State gas/mechanical contractor
3. One licensed Metropolitan/State plumbing contractor
4. One union, licensed Metropolitan/State plumbing contractor
5. One registered Metropolitan/State electrical contractor
6. One union, registered Metropolitan/State electrical contractor
7. One mechanical engineer registered with the State of Tennessee

8. One electrical engineer registered with the State of Tennessee

9. One member from the public at large as representative of the mayor

B. Of the nine members first appointed, four shall serve for a term of two years, three for a term of three years, and two for a term of four years. Thereafter, each member shall be appointed for a term of four years and shall serve until a successor is appointed, except that no member shall serve for more than two consecutive full terms.

#### 2.76.030 - Organization and officers

A. Board members shall annually elect a chair and a vice-chair from among their membership. The vice-chair is authorized to act in the place of the chair and in the same capacity as the chair when the chair is unavailable.

B. The board shall be staffed by the Department of Codes Administration. The director of codes administration or their duly authorized representative shall serve as secretary to the board and shall be custodian of the minutes and records of the proceedings of the board.

#### 2.76.040 - Compensation and removal of members

All members of the board shall serve without compensation and may be removed from the board by the mayor for any continued absence from the meetings of the board or other just cause. Replacement of any member who resigns or is dismissed from the board shall be appointed by the mayor and confirmed by the Metropolitan Council in accordance with Section 2.76.020 for regular appointees. Any member appointed as a replacement shall serve only for the remainder of the term of the member replaced unless subsequently reappointed by the mayor for a full term.

#### 2.76.050 - Rules and regulations for conduct of business

The board shall adopt such rules and regulations as it may deem necessary to properly conduct its business, provided that all such rules and regulations shall be explicitly set forth in writing. Copies of all rules and regulations shall be filed with the Metropolitan Clerk.

#### 2.76.060 - Meetings and hearings

A. The board shall establish regular meeting dates, at least one per month, for the conduct of its normal business activities, and may meet in special session on any matter before the board on call by the chairman.

B. All meetings of the board shall be open to the public and shall be held in a building under the jurisdiction of the Metropolitan Government. The board shall conduct a hearing on each petition brought before the board within a reasonable period following notification of such petition. In no event shall such hearing be more than thirty days following receipt of an application for examination or notice of appeal.

C. Written notice, setting forth the time and place of an examination or hearing, shall be given to each applicant or petitioner not less than ten days prior to such examination or hearing, except that the board, at its discretion, may limit such time to not less than 48 hours, as set forth in subsection C of section 16.16.720, subsection C of section 6.52.120, and subsection D of section 6.20.120.

#### 2.76.070 - Quorum

The attendance of five members of the board shall be required to constitute a quorum for the purpose of transacting business. In the event that only five members are present, the concurring vote of at least four of those members present at the meeting shall be necessary to modify an order of the director of codes administration or in varying the application of any provisions of this chapter and chapters 16.16, 6.52, 16.12, 6.20, and 16.20 or in the approval of any new material or method of construction or in the event the board is required to revoke or suspend any certificate or approval issued by the board. On all other matters requiring action by the board, affirmative votes of the majority present, but not less than four affirmative votes, shall be required.

#### 2.76.080 - Powers and duties

The board shall have the following powers and duties:

- A. The board shall examine all applicants for master mechanical certificate, HVAC&R certificate, and gas and appliance certificate, and upon the successful completion of such examination and payment of the required certification fee, shall issue to each applicant an appropriate certificate of registration.
- B. The board shall examine all applicants for a master plumber, journeyman, and apprentice plumber's certificate, and upon the successful completion of such examination and payment of the required certification fee, shall issue to each applicant an appropriate certificate of registration.
- C. The board shall examine all applicants for a master electrician's certificate, equipment installer's, and low-voltage wiring installer's license and, upon the successful completion of such examination and payment of the required licensure fee, shall issue to each applicant an appropriate license. The board shall also examine applicants for homeowner permits.
- D. The board shall hear all appeals under the provisions of this chapter and chapters 16.16, 6.52, 16.12, 6.20, and 16.20 from any decision or ruling of the director of codes administration. The board may vary the application of any provision of this chapter and chapters 16.16, 6.52, 16.12, 6.20, and 16.20 to any particular case when, in its opinion, the strict enforcement thereof would do manifest injustice and would be contrary to the spirit and purposes of this chapter or chapters 16.16, 6.52, 16.12, 6.20, and 16.20 or public interest, and when, in its opinion, the interpretation of the director should be modified.
- E. The board may, upon presentation of satisfactory evidence in the form of material tests and technical data, approve for use under this chapter or chapters 16.16, 6.52, 16.12, 6.20, and 16.20 any new gas/mechanical, plumbing, and/or electrical, material or method of installation not specifically covered or allowed by this chapter or chapters 16.16, 6.52, 16.12, 6.20, and 16.20. A public hearing shall be held prior to approval or disapproval of any proposed new material or method of construction. Such hearing shall be conducted according to the rules of the board established for such hearings.
- F. The board shall have the authority to revoke or suspend any certification or licensure issued by such board according to the procedures set forth in sections 16.16.720, 6.52.120, or 6.20.120, of this Code.
- G. The board shall review, discuss and vote on all proposed ordinances to change provisions of the gas/mechanical regulations set out in this chapter and chapters 16.16, 16.12, and 16.20 and make recommendations to the director.

#### 2.76.090 - Conflicts of interest.

No member of the board shall vote on any issue before the board in which such member may have a personal interest.

#### 2.76.100 - Appeals from decisions on gas/mechanical, plumbing, or electrical matters

The owner or their duly authorized agent may appeal to the board the decision of the director of codes administration whenever the director rejects or does not approve the mode or manner of a gas/mechanical, plumbing, and/or electrical system or installation proposed to be followed, or the materials used or proposed to be used in such gas/mechanical, plumbing, and/or electrical system or installation or in the repair of or alteration of a gas/mechanical, plumbing, and/or electrical installation, or when it is claimed that the provisions of this chapter or chapters 16.16, 6.52, 16.12, 6.20, and 16.20 do not apply or that an equally good or more desirable form of installation or material can be employed in any specific case, or when it is claimed that the true intent and meaning of this chapter or chapters 16.16, 6.52, 16.12, 6.20, and 16.20 or any of the rules and regulations promulgated hereunder have been misconstrued or wrongly interpreted.

#### 2.76.110 - Appeals - Filing requirements.

Notice of an appeal to the board shall be in writing, setting forth the grounds for such appeal, and shall be filed with the secretary of the board within ten days prior to the meeting of the board. A filing fee of two hundred and fifty dollars shall be paid at the time the appeal is filed with the board.

2.76.120 - Decisions of the board - Recordkeeping

- A. All decisions of the board shall be in writing. Every decision of the board shall be promptly entered into the minutes of the meeting of the board and filed in the office of the director of codes administration. A copy of the minutes reflecting the board decisions shall be posted on the website for the department of codes administration.
- B. The records of the board shall be open to public inspection, as herein provided. A certified copy of each decision of the board modifying a decision or ruling of the director, approving or disapproving any new material or method of construction, or revoking or suspending any certificate or approval issued by the board shall be sent by mail or otherwise delivered to the appellant or aggrieved party.
- C. The board shall, in every case, render a decision without unreasonable or unnecessary delay.
- D. A decision of the board varying the application of any provisions of this chapter or chapters 6.52, 16.12, 6.20, 16.20, or 16.16 or modifying an order of the director, shall be by resolution. The resolution shall specify in what manner such variations or modifications shall be made, the conditions upon which they are made, and the reasons therefor.
- E. Any decision of the board approving a new material or method of construction shall be in writing and shall stipulate the specific conditions under which such new material or method of construction may be used. The board may limit the use of any new material or method of construction to a specified use in a single instance or may approve such new material or method of construction for general use under this chapter and chapters 16.16, 6.52, 16.12, 6.20, and 16.20 throughout the area of jurisdiction of this chapter and chapters 16.16, 6.52, 16.12, 6.20, and 16.20.
- F. Every decision of the board shall be final, according to the procedure herein established, subject, however, to such remedy as any aggrieved party may have at law or in equity.
- G. When a decision of the board reverses or modifies a refusal, order, or disallowance of the director, varies the application of any provisions of this chapter or chapters 16.16, 6.52, 16.12, 6.20, and 16.20, or approves any new material or method of construction for use under this chapter or chapters 16.16, 6.52, 16.12, 6.20, and 16.20, the director shall immediately take action concerning such decision or recommendation to immediately carry out the decision of the board.

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

### Analysis

This ordinance, as amended, amends various sections in the Metro Code to combine the Board of Electrical Examiners and Appeals, the Board of Gas/Mechanical Examiners and Appeals, and the Board of Plumbing Examiners and Appeals into one new consolidated board. These separate boards have been in existence for many years, dating back as early as 1965, to handle trade licensing and code appeals. Most contractors now have a state contractor's license, which has reduced the number of local licenses. The state license allows contractors to work in all counties, which is why contractors generally opt for that license instead of a Metro license.

Further, the modern versions of the trade codes have greatly reduced the number of appeals, and finding people to serve on the boards to hear the few appeals they have has become a challenge. The current codes (the International Code Council - ICC and the National Electric Code - NEC) are now very standardized, so the number of appeals have dwindled to the point where each board only meets a couple of times per year.

This ordinance abolishes the three boards and creates one new nine member board composed of the following:

- One gas/mechanical contractor
- One union gas/mechanical contractor

- One plumbing contractor
- One union plumbing contractor
- One electrical contractor
- One union electrical contractor
- One mechanical engineer registered with the State of Tennessee
- One electrical engineer registered with the State of Tennessee
- One member from the public at large as representative of the Mayor

The board would be responsible for hearing appeals for violations and decisions issued by the Codes Department under chapters 6.20, 6.52, 16.12, 16.16, and 16.20 of the Metro Code.