



# Metropolitan Nashville and Davidson County, TN

## Legislation Text

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**File #:** BL2022-1581, **Version:** 1

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An ordinance amending Metropolitan Code Sections 17.12.040 and 17.28.103 to regulate the location of electric utility meters in residential areas and to amend the requirements for underground utilities for new residential developments (Proposal No. 2023Z-001TX-001).

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

Section 1. That Metropolitan Code of Laws subsection 17.12.040.E.29 is hereby amended by deleting it in its entirety and replacing it with the following:

29. Utility transmission lines and associated structures, such as poles, provided that electric utility meters shall not be permitted in the required street setback unless expressly required by the power supplier for safety and access purposes;

Section 2. That Metropolitan Code of Laws section 17.28.103 is hereby amended by deleting it in its entirety and replacing it with the following:

### 17.28.103 - Underground utilities

A. Applicability. These standards shall apply to any application for residential development submitted to the metropolitan government for approval, wherein a new public or private street is to be constructed now or in the future, or where an existing public or private street, is to be extended, as follows:

1. Any application for a new or amended preliminary planned unit development;
2. Any new or amended preliminary SP plan;
3. Any new or amended preliminary urban design overlay district; or
4. Any new or revised preliminary subdivision plat; and in the case of a proposed revised preliminary plat, these provisions shall only apply to those plats deemed to be a major modification by the executive director of the metro planning department, as provided in the Subdivision Regulations.

B. Utility Services.

1. A public utility easement shall be provided along all public and private streets and alleys by the property owner.
2. All public and private utility services installed shall be underground, including the conduit (raceway) from service equipment, except as provided in subsections C, D, and F of this section. Such conduit (raceway) shall be placed underground to the curbline and/or utility right-of-way, including but not limited to, electric, telephone, communication, exterior lighting and television cable.
3. Related equipment excluding electric utility meters shall be above ground, preferably within the furnishing zone between the curb and sidewalk, within the public utility easement, or within the required

street setback; electric utility meters shall be above ground, not located within the required street setback, and located on or within three feet of the serviced structure unless otherwise expressly required by the power supplier for safety and access purposes. Equipment placed in the street right-of-way shall be subject to all applicable laws and ordinances.

- C. Previously Approved Streets and Utilities. Where a subdivision abuts an existing public or private street, or one shown on an approved final plan with an overlay district, recorded final plat, or on the Metropolitan Government Official Street and Alley Map, then no undergrounding shall be required of existing utilities or new utilities proposed along that existing portion of the public or private street, unless underground utilities already exist.
- D. Exemptions. The following items shall be exempt from complying with the provisions of this section.
1. Any residential lot or parcel greater than forty thousand square feet in size.
  2. Above-ground utility equipment installed, maintained, and utilized by utility companies for a period not to exceed thirty days in order to provide emergency utility services. The time limitation may be extended, if warranted, by the metro planning commission.
  3. Utility equipment utilized exclusively for street lighting purposes.
  4. Utility equipment utilized exclusively for vehicular and pedestrian traffic control purposes.
  5. Utility equipment appurtenant to underground facilities and which meet the requirements of subsection (B)(3) of this section, such as service-mounted, pedestal-mounted, or pad-mounted transformers, terminal boxes, meters, cross boxes, cabinets, vaults, electronic enclosures, pedestals, flush-to-grade hand holes, splice closures.
  6. Temporary utility equipment utilized or to be utilized exclusively in conjunction with construction projects, seasonal, or special event installations. Upon installation of permanent utility service, above-ground service shall be removed.
  7. Fire hydrants, fireplugs, and other utility equipment utilized exclusively for firefighting purposes.
  8. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building, or to an adjacent building or to the alley, without crossing any public street.
  9. Antennas, associated equipment and supporting structures, used by a utility for furnishing communication services.
  10. Electrical distribution lines on major streets as shown on the Major Street Plan, electrical transmission lines, or switch gear.
  11. Equipment installed by the utility which should not be installed underground for engineering, safety, or environmental regulatory reasons.
  12. Utility lines where severe disruption of existing improvements, diminished quality of service, or undue difficulty in repair would occur. Such exemption shall require the review and approval of the metropolitan planning commission.
  13. Utility lines where an affected adjoining property owner will not consent to modification of easements.

Such exemption shall require the review and approval of the metropolitan planning commission.

- E. Variance. A property owner and/or developer may appeal to the board of zoning appeals indicating why undergrounding utilities are not feasible in accordance with the procedures set forth in Section 17.40.350 of this code. The board shall not act upon such a request without first receiving a recommendation from the metropolitan planning commission, as provided in Section 17.40.340 of this code.
- F. Alleys. Where a subdivision proposes alleys, utilities may be located above or below ground in these alleys. If utilities are located above ground, then all utilities serving the proposed lots shall be placed in the alleys, except any street light system. Utilities connecting one alley to another alley may cross a public or private street above ground.
- G. Property Owner Responsibility. The property owner and/or developer installing, requesting, or requiring the construction of the improvement, and not the metropolitan government or the utility, shall be responsible for the cost of placing utility lines underground and shall make the necessary arrangements with the serving utility companies. The utility shall have no obligation to underground facilities unless and until it receives full payment for costs to do so.
- H. Non-Conforming Utility Equipment. Any utility equipment approved or installed and operating prior to the effective date of the ordinance codified in this section may be maintained in its present condition and may be upgraded to conform to new technologies and regulatory requirements.
- I. Existing City Franchises Not Affected. The provisions of this section do not waive any right enjoyed by the metropolitan government with respect to any franchisee, nor waive the obligations created by any franchise. If any provision of this section conflicts with any provision of a franchising agreement or ordinance, said franchise provision shall control. The provisions of this section likewise are not intended to create any conflict with the rights granted pursuant to T.C.A. §§ 65-21-201, et seq. and 65-21-107.
- J. Relationship to Other Requirements. In case of conflict between the standards of this section and any other standards, rules, or regulations adopted by any other applicable metropolitan government department or agency, the provisions of this article shall control.
- K. Severability. If any portion of this section is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other portion of this section.

Section 2. The Metropolitan Clerk is directed to publish a notice announcing such change in a newspaper of general circulation within five days following final passage.

Section 3. This Ordinance shall take effect upon publication of above said notice announcing such change in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

### Analysis

This ordinance amends Sections 17.12.040 and 17.28.103 of the Metropolitan Code to prohibit electric utility meters from being located within the required street setback and located within three feet or mounted to the serviced structure unless required by the power supplier for safety and access and to require underground utilities for new residential developments governed by a new or amended preliminary SP plan.

Currently, electric utility meters are permitted within the required street setback and underground utilities are only required for new residential developments that are governed by a new or amended plan unit development, a new or amended preliminary urban design overlay district, or a new or revised preliminary subdivision plat.

This item was approved by the Planning Commission at its February 23, 2023 meeting.