



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director and Special Counsel
Hannah Zeitlin, Assistant Legal Counsel
Maria Caulder, Finance Manager
Metropolitan Council Office

COUNCIL MEETING DATE: June 9, 2020

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 5/27/20:

4% Reserve Fund	\$18,600,037*
Metro Self Insured Liability Claims	\$2,128,340
Judgments & Losses	\$2,634,624
Schools Self Insured Liability Claims	\$3,564,512
Self-Insured Property Loss Aggregate	\$8,051,122
Employee Blanket Bond Claims	\$713,591
Police Professional Liability Claims	\$2,062,436
Death Benefit	\$1,663,694

*This assumes unrealized estimated revenues in FY20 of \$4,046,980

Note: No fiscal note is included for legislation that poses no significant financial impact.

– BILLS ON PUBLIC HEARING AND SECOND READING –

BILL NO. BL2019-8 (ROBERTS) – This ordinance would amend Section 17.20.120 of the Metropolitan Code regarding the sidewalk fund.

Currently, money collected from the payment in lieu of sidewalks is collected into a pedestrian benefit fund. The funds are required to stay in the pedestrian benefit zone from where the payment was made.

This ordinance would remove the pedestrian benefit zones and instead require funds to stay within the Council district of the new development.

This bill has been disapproved by the planning commission.

SECOND SUBSTITUTE BILL NO. BL2019-48 (ROSENBERG, YOUNG, & OTHERS) – This ordinance, as substituted, amends the home occupation requirements in Section 17.16.250.D of the Metro Code.

The current provisions allow for a home occupation if no clients or patrons are served on the property and if no more than one employee (part-time or full-time) not living at the home is employed by the business. Other requirements prohibit causing a nuisance, certain limitations on mechanical and electrical equipment, and regulations on the storage of materials and goods on the premises. Permits are currently required for all home occupations.

The ordinance under consideration would remove the prohibition on serving clients on the premises and would instead allow no more than three vehicle trips per hour, with a maximum of six visits per day related to the business. Customer visits could only occur by scheduled appointment and between the hours of 8 a.m. and 7 p.m. Monday through Saturday. Only certain occupations would be permitted, including personal instruction, general office, personal care services, multimedia production, and artisan manufacturing uses. Permits would be required of all home occupations, except those where no customers are served on the property and any employees live within the dwelling. Permits would not be transferable or assignable, and a permit could be revoked upon three or more verified complaints within a calendar year.

This ordinance received a tie vote at the planning commission and, as a result, was given no recommendation.

BILL NO. BL2019-79 (O'CONNELL) – This ordinance implements certain requirements for a Short Term Rental Property - Owner Occupied.

This ordinance prohibits an owner-occupied STRP from advertising the availability of all bedrooms within the unit for rent, except for a two-family residential unit under common ownership with a

two-family unit on the same lot, which is permitted in accordance with MCL 17.16.250.E.1.f. Also, this ordinance would make clear that an owner must reside onsite at an owner-occupied STRP at all times the property is being used as an STRP. Further, the owner could not be absent from the dwelling unit for longer than 15 consecutive hours within any 24 hour period while the property is being used as an STRP.

A proposed substitute is anticipated from the Planning Department.

This ordinance has been approved by the planning commission.

SUBSTITUTE BILL NO. BL2020-187 (PULLEY & JOHNSTON) – This ordinance, as substituted, transfers Nashville’s Short Term Rental Property (STR) code provisions from Title 17 to Title 6, and establishes a Short Term Rental Appeals Board to hear and decide appeals from decisions made by the zoning administrator regarding STR permits. This ordinance was filed at the request of the Department of Codes Administration to relieve the burden on the board of zoning appeals, which has seen its docket clogged with STR appeals in recent months.

This ordinance does not make any substantive changes to the STR conditions, regulations, and restrictions. It just moves those provisions under the business licensing and regulation title of the Metro Code. The ordinance also establishes a Short Term Rental Appeals Board consisting of seven members to hear appeals of zoning administrator decisions. One member of the board would be a member of the Metro Council selected by the body from its membership to serve for a term of two years. The remaining six members would be appointed by the mayor and confirmed by a majority vote of the Council. Of the remaining six members, at least one must be an attorney. The board would be required to meet at least once a month, but could hold special meetings as necessary. The board would have jurisdiction to uphold, reverse, or modify in whole or in part the zoning administrator’s decision regarding STR permit issuance or revocation for all permits eligible for review.

There is a proposed amendment that will require a public hearing to be held before the Metropolitan Council prior to making any future changes to the STR regulations. Since the regulations would be moved out of Title 17, a public hearing would not otherwise be required by law.

This ordinance has been approved by the planning commission.

SUBSTITUTE BILL NO. BL2020-188 (HENDERSON) – This ordinance, as substituted, amends Chapters 13.08, 13.12, and 17.20 of the Metro Code to require all driveways to have an apron to be paved with a hard surface and to prohibit the runoff of gravel into the public rights-of-way. The purpose of this ordinance is to address the problems associated with gravel washing into the public rights-of-way from rainstorms and general use, which presents a hazard to pedestrians and cyclists.

This ordinance would require all driveways constructed or modified to the point of requiring a new driveway authorization application after July 1, 2020 to have an apron to be paved with a hard surface from the edge of street pavement to the edge of the right-of-way or 10 feet, whichever is greater. If the distance exceeds 10 feet, the Chief Engineer would have the authority to permit an alternate design. The design and construction of this required apron must not impede any drainage way. The ordinance also makes it a code violation for a property owner to allow gravel to wash or encroach into the right-of-way.

This ordinance has been approved by the planning commission.

SUBSTITUTE BILL NO. BL2020-197 (VERCHER) – This ordinance declares a 120-day moratorium upon the issuance of building and grading permits for multi-family developments on property within portions of the Antioch area of Nashville and Davidson County.

The moratorium on building and grading permits is to allow the Planning Department to conduct a study of the Antioch area to determine whether existing and planned infrastructure and public facilities are sufficient to meet the projected density resulting from multi-family development. This study is to include an assessment of the capacity to deliver public services to the area, including but not limited to, public safety facilities, roadways, sidewalks, stormwater, and school capacity. It will also make recommendations to the Council regarding modifications to the community plans and policies to address any deficiencies noted and any necessary zoning changes.

This ordinance does not yet identify the specific areas where the moratorium would be imposed.

The planning commission recommended deferral of this ordinance until August 2020.

BILL NO. BL2020-277 (SYRACUSE) – This ordinance amends Section 17.40.660 of the Metropolitan Code to allow nonconforming structures destroyed during the March 3, 2020 tornado to rebuild, regardless of the percentage of floor area destroyed. Section 17.40.660 currently provides that nonconforming structures damaged as a result of a natural disaster may be reconstructed if the damage was to less than fifty percent of its total floor area or less than fifty percent of the building value. The March 3 tornado destroyed some older homes that were nonconforming because the setback requirements have changed since the home was constructed.

This ordinance would allow nonconforming structures damaged or destroyed by the March 3, 2020, tornado to be reconstructed in accordance with the district bulk regulations in effect at the time of original construction regardless of the percentage of floor area damaged or destroyed.

There is a proposed substitute recommended by the planning commission that would allow nonconforming structures destroyed by the tornado to be rebuilt so long as there is not a substantial increase in the degree of non-conformity.

SUBSTITUTE BILL NO. BL2020-288 (HENDERSON, ALLEN) – This ordinance, as substituted, amends the sidewalk installation requirements in Section 17.20.120.C of the Metro Code for the purpose of establishing street tree requirements.

Section 17.20.120 of the Zoning Code establishes requirements for sidewalks to be constructed with certain types of development and based on certain locational criteria. Subsection 17.20.120.C establishes standards for installation of public sidewalks, including sidewalk design standards; the sidewalk dimensions and required elements must comply with the Major and Collector Street Plan (MCSP) sections or with adopted Public Works standards for local streets.

The ordinance under consideration specifies that when sidewalks are triggered in association with multi-family or nonresidential development located within a center identified in NashvilleNext, the developer is required to install street trees within the required grass strip/green zone (planting strip) or frontage zone component of the overall sidewalk. This proposal does not impact properties within the Downtown Code (DTC), as the DTC includes separate standards for street trees, nor does the proposal impact one or two-family residential development or multi-family or nonresidential development located outside of NashvilleNext centers.

All street trees required to be planted as a part of this proposal must meet a set of planting, installation and maintenance specifications for street trees, to be known as the Metro Nashville Street Tree Specifications. The Street Tree Specifications are currently being developed and refined with input from various Metro agencies including Water Services, Public Works, Urban Forestry, Planning, and Codes. These specifications and guidelines, once finalized, will be maintained by Metro Water Services, and will guide review of plans that incorporate street trees during the permit process.

This ordinance was approved with a substitute by the Planning Commission at their May 28, 2020 meeting.

– RESOLUTIONS –

RESOLUTION NO. RS2020-342 (O’CONNELL, MENDES, & OTHERS) – This resolution approves an in-kind grant from the Historic Capitol Corridor Foundation to the Metropolitan Parks and Recreation Department for improvement to and programming for the Church Street Park. The grant has an estimated value not to exceed \$465,000 with no cash match required.

– ORDINANCES ON SECOND READING –

BILL NO. BL2020-296 (O'CONNELL & SWOPE) – This ordinance approves a temporary “Special Event Zone” for the downtown area, in conjunction with the 2020 July 4th Celebration scheduled July 2 to 5, 2020.

The Special Event Zone established under this ordinance would consist of seven areas, all contiguous within Downtown Nashville, as follows:

- Area 1 extends from 8th Ave to Rosa L Parks Blvd, and from Korean Veterans Blvd to Commerce Street, with an extension from Commerce Street to Church Street along 2nd and 1st Ave North.
- Area 2 extends from the East side of the Woodland Street Bridge to Interstate Drive, between Woodland Street and Shelby Ave.
- Area 3 contains the John Seigenthaler Pedestrian Bridge from 3rd Ave South to South Second Street.
- Area 4 contains the Woodland Street Bridge, from 1st Ave North to South 1st Street.
- Area 5 contains the Gay Street Connector; 3rd Ave North to the Cumberland River, between James Robertson Parkway and Union Street; and 2nd Ave North to 1st Ave North, between Union Street and Church Street, including Bank Street.
- Area 6 contains Woodland Street to Shelby Street, between the Cumberland River and Interstate Drive including Cumberland Park, and South 2nd Street, from Sylvan Street to Korean Veterans Blvd.
- Area 7 contains the Korean Veterans Blvd. Bridge.

Activity restrictions within the Special Event Zone would begin at nine o'clock (9:00) p.m. on Tuesday, July 2, 2020, and end at 11 o'clock (11:00) p.m. on Friday, July 5, 2020.

Activities on public property or in the public right-of-way within the Special Event Zone are regulated as follows:

1. The sale of any food, beverages, goods, or merchandise would be prohibited, unless street vendors obtain a “Special Event Zone” permit from the Nashville Convention and Visitors Corporation (CVC) in order to sell within the geographic area listed above.
2. Alcoholic beverages provided, served, or sold from any temporary outdoor would be prohibited, except as authorized.
3. The sale or distribution of merchandise pertaining to the July 4th Celebration, where it is apparent on its face that the merchandise is not licensed by CVC, would be prohibited.
4. No tents or membrane structures of any kind would be permitted, except as authorized by CVC or Metro for public safety purposes.
5. The construction, placement, occupation, or use of any temporary structure would be prohibited except those sanctioned and authorized by the CVC.
6. The distribution, promotional give-away activity, or provision of free products, services, or coupons by persons or entities that are not event sponsors officially sanctioned and authorized by CVC would be prohibited, except within any Public Participation Area.
7. Vehicles would be allowed only as directed by Metropolitan Nashville Police.

8. No shared urban mobility devices, as defined by Metropolitan Code of Laws Section 12.62.010, would be permitted within the Special Event Zone.
9. No handguns, rifles, or firearms would be permitted. (Tennessee Code Annotated § 39-17-1359)
10. No knives, swords, or other fighting devices would be permitted.
11. No fireworks, firecrackers, or explosive devices of any type would be permitted, except exhibitions permitted by CVC.
12. The Special Event Zone would be a “no fly zone.”

This ordinance establishes at least one Public Participation Area within the Special Event Zone while the zone is in effect. This Area allows for the reasonable expression by the public in a manner that is not disruptive to the July 4th Celebration, activities, and events.

Fiscal Note: This ordinance places restrictions on the activities allowed to take place within the special event zone during the July 4th Celebration. However, no additional Metro personnel or overtime would be required just for the enforcement of these restrictions.

BILL NO. BL2020-299 (GLOVER) – This ordinance amends Sections 5.32.030 and 5.32.110 of the Metropolitan Code to increase the amount of the annual commercial vehicle and passenger motor vehicle regulatory license fees. These are the fees vehicle owners pay annually to the county clerk for the privilege of operating a motor vehicle in Davidson County. These fees were last increased in 2005. The current fees are \$55 per year for passenger vehicles and \$66 per year for commercial vehicles. This ordinance would increase the annual fee to \$80 for passenger vehicles and \$116 for commercial vehicles.

The sponsor estimates that this increase would generate approximately \$15,000,000 per year in additional revenue, but these estimates are still being reviewed by the Finance Department.

– ORDINANCES ON THIRD READING –

BILL NO. BL2020-298 (MENDES & MURPHY) – This ordinance adopts the Capital Improvements Budget (CIB) for fiscal year 2020-2021 through 2025-2026. A listing of the CIB new projects for FY21 was distributed to Council members on May 15, 2020 and is posted on the Council’s webpage. The CIB is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the Council, except in the case of a public emergency.

Section 6.13 of the Metropolitan Charter provides: “The mayor shall submit the capital improvements budget to the council not later than May 15th and shall recommend those projects to be undertaken during the ensuing fiscal year and the method of financing them, noting the impact on the debt structure of the Metropolitan Government, and shall include in the appropriate current operating budget any projects to be financed from current revenues for the ensuing fiscal year.”

Pursuant to Section 11.504(k) of the Charter, the Metropolitan Planning Commission reviewed capital improvement project requests submitted by Metro departments, boards, commissions and agencies, evaluated the overall needs of the community, and recommended to the Mayor a CIB budget for fiscal year 2020-2021, including a program of proposed expenditures for the ensuing five years.

The Charter requires the Council to adopt the CIB no later than June 15 of each year. Accordingly, the Council will hold an adjourned meeting on June 9, 2020 in order to approve the CIB on third reading prior to this June 15 Charter deadline.

The CIB is amendable on third and final reading.

Once adopted, any future amendments to the CIB would need to be approved by the Planning Commission, recommended by the Mayor, and then adopted by resolution of the Council receiving at least 27 affirmative votes.