

NOTICE OF HEARING
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF AIR POLLUTION CONTROL
WILLIAM R. SNODGRASS TENNESSEE TOWER
312 ROSA L. PARKS AVENUE, 15TH FLOOR
NASHVILLE, TN 37243
PHONE: (615) 532-0554 FAX: (615) 532-0614

NOTICE IS HEREBY GIVEN, the Division of Air Pollution Control will hold a public hearing pursuant to T.C.A. §68-201-105 and §4-5-201 et. seq.

Location: **Conference Room E, 3rd Floor, Conference Center North in the William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, Nashville, TN 37243**
Date: **November 15th, 2016**
Information Session: **1:00 PM Central**
Public Hearing: **2:00 PM Central**

Prior to opening the formal public hearing, an informational session will be held with Tennessee Department of Environment and Conservation (“TDEC”) staff. The informational session will have a question and answer format. Once the formal public hearing begins, the question and answer format will end and all public comments will be collected for the hearing record without response from TDEC during the hearing. TDEC staff will provide written responses to all oral and written comments following the public hearing, prior to making a final determination on the action.

The meeting moderator may limit the length of oral comments in order to allow all parties an opportunity to speak, and will require that all comments be relevant to the proposed action. Written comments will be accepted at the hearing, and will be considered part of the hearing record.

Interested persons may obtain additional information, including a copy of the proposed SIP revision, and may inspect and copy related documents at the Division’s Central Office at the address listed above, or the locations listed in the table below.

Individuals with disabilities who wish to participate in these proceedings (or review the file record) should contact TDEC to discuss any auxiliary aids or services needed to facilitate such participation. Contact may be in person, by writing, telephone, or other means, and should be made no less than ten working days prior to **November 15th, 2016**, to allow time to provide such aid or services. Contact the ADA Coordinator (1-866-253-5827) for further information. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on Tuesday, November 15, 2016, at the following address: Technical Secretary, Tennessee Air Pollution Control Board, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, TN 37243.

Summary of Proposed Action

The State of Tennessee Air Pollution Control Division (APCD) is seeking public comment on the inclusion of changes to Davidson County’s Code of Ordinance Chapter 10.56.020 “Construction Permits” into the State Implementation Plan (SIP). Specifically, the APCD is seeking comment on whether this local ordinance amendment should be incorporated into the SIP. It should be noted, APC is not seeking comments on the specific merits of the change to Davidson County’s Code of Ordinances as the changes have been adopted by the Metropolitan Council as the legislative authority of the Metropolitan Government of Nashville and Davidson County.

Revisions considered at this hearing may be adopted by the Tennessee Air Pollution Control Board under T.C.A. 68-201-105, the Boards general authority to promulgate rules.

Materials concerning the proposed action will be available at <http://tn.gov/environment/topic/ppo-air/> and also for public inspection during normal working hours starting on October 7, 2016, at the following locations:

Technical Secretary Tennessee Air Pollution Control Board William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15th Floor Nashville, TN 37243	Pollution Control Division Metro Public Health Department 2500 Charlotte Ave Nashville, TN 37209-4129	U.S. EPA, Region 4 Atlanta Federal Center 61 Forsyth Street S.W. Mail Code 9T25 Atlanta, GA 30303-8960 c/o Ms. Lynorae Benjamin
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Amendment to the Tennessee State Implementation Plan to Incorporate Revisions to Davidson County's Code of Ordinances Chapter 10.56.020 "Construction Permits"

The State of Tennessee, Division of Air Pollution Control received a request on August 25th, 2016 from the Nashville/Davidson County Pollution Control Division to amend a portion of the State Implementation Plan (SIP) for Davidson County. The SIP is a State's plan for attaining and maintaining the National Ambient Air Quality Standards (NAAQS). Included in the SIP are rules and regulations pertinent to the improvement and maintenance of air quality. Tennessee Code Annotated Title 68 allows for the existence of local air pollution control agencies to carry out the functions of the State Air Pollution Control agency in a local jurisdiction. Nashville/Davidson County is such a jurisdiction.

The request received from the Nashville/Davidson County Pollution Control Division to amend a portion of the SIP containing Davidson County's Code of Ordinances regards Chapter 10.56.020 "Construction Permits". The change to the language in 10.56.020 is illustrated in the attached document. Only a portion of 10.56.020 is being amended, the language not being amended is already incorporated into the SIP. There are two documents attached, one illustrating the revised version of the Code of Law, and an additional version that illustrates the changes using underline/strikeout typeface.

The State of Tennessee Air Pollution Control Division (APCD) is seeking public comment on the inclusion of the changes into the SIP pursuant to 40 CFR 51.102. Specifically, the APCD is seeking comment on whether this local ordinance amendment should be amended into the SIP. It should be noted, APC is not seeking comments on the specific merits of the change to Davidson County's Code of Ordinances as the changes have been adopted by the Metropolitan Council as the legislative authority of the Metropolitan Government of Nashville and Davidson County, a city-county consolidated government. The inclusion of this portion of Davidson County's Code of Ordinances into the SIP, once submitted and approved by the United States Environmental Protection Agency (USEPA), would make this provision of the Davidson County Code of Ordinances federally enforceable. If this revision to the Davidson County Code of Ordinances is incorporated into the SIP, any future revisions to this part of Davidson County's Code of Ordinances would require submission to, and approval by, USEPA.

The revised Ordinance 10.56.020 is included in Attachment 1. An underline/strikethrough version illustrating the specific changes to 10.56.020 is included in Attachment 2. Attachment 3 includes a copy of the second substitute ordinance number BL2016-234 which includes the legislative history of the adoption of the ordinance by the Metropolitan Council of the Metropolitan Government of Nashville and Davidson County. Attachment 4 includes letters received from the Metro Public Health Department, Pollution Control Division.

Attachment 1

ARTICLE I. ADMINISTRATION AND ENFORCEMENT

SECTION 10.56.020: Construction Permits

A.

1. It is unlawful for any person to install, erect, construct, reconstruct, alter, or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel-burning equipment, incinerator, process equipment, control device, or any equipment pertaining thereto, or any stack or chimney connected therewith, or to make or cause to be made any alteration or repairs which increases the amount of air contaminant emitted by such source or which results in the emission of any air contaminant not previously emitted until application for a construction permit has been filed with the Metropolitan Health Department and plans and specifications applicable to the work have been submitted to the Director and a construction permit issued by him for such construction, installations, alterations or repairs. Applications for a construction permit shall be filed in duplicate in the offices of the Director on forms adopted by the Director and supplied by the Metropolitan Health Department along with a copy of plans and specifications. The Director shall not grant a construction permit to any source which does not comply with the provisions of the New Source Review Regulations as adopted by the Board. If the Director determines, on the basis of information available to him, that such source does, or in all likelihood will, operate in violation of this Chapter, or that the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard, he shall either impose conditions on the face of the construction permit that in his opinion will promote compliance with this Chapter, and/or attainment and maintenance of any national ambient air quality standard, or he shall deny the application for the construction permit. At the request of the Director, the applicant shall provide information necessary for the Director to make the determination of whether the source does, or in all likelihood will, operate in violation of this Chapter, or whether the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard. For a major source, such information required may include a source impact analysis and air quality analysis as set out in regulations adopted by the Board. This Section shall not apply to fuel-burning equipment used exclusively for heating less than three (3) dwelling units, or to gas, or fuel oil equipment of five hundred thousand BTU input or less or to internal combustion engines.
2. In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation, or establishment of any fuel-burning equipment, incinerator, process equipment, or control devices and prior to invoking any such remedies, the person aggrieved thereby shall, upon request in accordance with the provisions of this Chapter and the rules and regulations adopted by the Board be entitled to a hearing. Such hearing shall be conducted pursuant to the contested cases provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, Part 3.
3. The absence or failure to issue a rule, regulation or order pursuant to this Section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

B. Maintenance or repairs or alterations which are minor in scope or do not change the capacity of any fuel-burning equipment, incinerator, process equipment and which do not involve any

change in the method of combustion or materially affect the emission of smoke, dust, gases, fumes, or other air contaminants therefrom may be made without placing an application for construction permit with the Metropolitan Health Department. Emergency repairs may be made prior to the applications in the event an emergency arises and serious consequences would result if the repair were to be deferred. When such repair is made in an emergency, the application as required by this Section shall be filed in the office of the Director within ten days after the start of such work.

- C. The plans and specifications, submitted pursuant to this Section, concerning any fuel-burning equipment, incinerator or process equipment shall show the type, form and dimensions of all equipment and appurtenances thereto and stacks and ducts, together with the description and dimensions of the building or part thereof in which such equipment is to be located, the amount of work or the amount of heating to be done by such equipment and all provisions for securing complete combustion of the fuel or refuse and for reducing or controlling emission of air contaminants. Such plans and specifications shall also show the character of the fuel or refuse to be burned or process material, the maximum quantity to be burned per hour, and the operation requirements of the equipment. The plans and specifications shall show that the room or premises in which fuel-burning equipment or incinerator is to be located is provided with adequate ventilation to provide sufficient air for the combustion process and for the safety of people.
- D. The plans and specifications submitted pursuant to this Section shall be prepared under the direction of, or approved by and bear the seal of, a professional engineer registered in this State or be a graduate of an accredited engineering school and experienced in his field of endeavor.
- E. The requirement for filing plans and specifications involving the installation, erection, construction, reconstruction, alteration, or repair of or addition to, any fuel-burning equipment, incinerator, process equipment, or the building of pilot plants or processes to be used in or to become part of a secret process is suspended upon the filing with the Metropolitan Health Department, in lieu of the filing of plans and specifications, of an affidavit of a responsible person to the effect that such equipment or process is to be so used. Such person may be required by the Board to furnish bond or other proof of financial responsibility. The suspension of the filing of such plans and specifications shall in no way relieve the person or persons responsible for the secret process from complying with all other provisions of this Chapter.
- F. If the installation, erection, construction, reconstruction, alteration, addition or repair is not started within one (1) year of the date of issuance of a construction permit or any extended period granted in writing by the Director, the construction permit shall become void.
- G. Any equipment covered by this Section which is installed, erected, constructed, reconstructed or altered without making application for a construction permit to the Department of Health and receiving this permit as provided herein may be sealed by the Director with the approval of the Board, the seal to remain in effect until all provisions of this Chapter have been complied with. This remedy is not deemed to be the exclusive remedy.
- H. No new source shall be granted a construction permit unless the new source complies with the Metropolitan Zoning Code for the use of the property on which the new source is to be

constructed. For purposes of legal nonconforming uses, in accordance with Tenn. Code Ann. §13-7-208, this requirement shall not apply. The receipt of a construction permit from the Metropolitan Health Department shall not be construed to indicate approval of the strength or safety of any equipment or to indicate compliance with the requirements of the Building Code of Metropolitan Nashville and Davidson County or any other ordinance thereof. Neither shall it relieve anyone from the responsibility to comply fully with the applicable provisions of this Code, nor any other requirement(s) imposed by statute, rule or regulation of the Metropolitan Government of Nashville and Davidson County, Tennessee, the State of Tennessee or the United States Government.

- I. New and modified sources having obtained a valid construction permit in accordance with this Section may operate under the construction permit for the period of time specified within the permit which shall not exceed one hundred and eighty (180) days provided that the Director is notified of the date of startup. Such notification must be submitted in writing within five (5) working days of the date of startup of the new or modified source.
- J. Results of any compliance testing required as a condition of a construction permit must be conducted in accordance with Section 10.56.290, "Measurement of Emissions" and Section 10.56.300, "Testing Procedures" of this Chapter and the test results submitted to the Director within the time period specified on the permit. Failure to demonstrate compliance with the allowable emission standards or any other condition shown on the construction permit shall constitute sufficient grounds for the Director to require changes in the installation before an operating permit can be granted. Responsibility for demonstrating proof of compliance including all expenses incurred in conducting the required compliance tests shall be borne by the owner or operator of the effected facility.
- K. The Director or his authorized representative shall have the right to enter the premises to observe any compliance tests and to inspect the installation and operation of any equipment for which a construction permit was issued.
- L. Any application for a construction permit for a major source received by the Director is subject to objection and comment by the Administrator under the provisions of 42 U.S.C. Section 7661 d., as amended. Therefore, no permit shall be final until the time for objection by the Administrator has expired.
- M. Any failure to act or inaction by the Director within eighteen (18) months after receipt of a complete application for a construction permit may be considered final action for the purpose of any appeal to the Davidson County Chancery Court under T.C.A. Section 27-8-101, et seq., and T.C.A. Section 27-9-101, et seq.
- N. The Director shall, on a monthly basis, notify the public, by advertisement in a newspaper or newspapers of general circulation within the Metropolitan Government area, of the applicants seeking to obtain a permit to construct or modify an air pollution source. This notice shall specify the location of the proposed source or modification, the type of source or modification, and shall provide the opportunity for public comments. The public shall have thirty (30) days from the date of advertisement to submit written comments to the Director.

Attachment 2

ARTICLE I. ADMINISTRATION AND ENFORCEMENT

SECTION 10.56.020: Construction Permits

A.

1. It is unlawful for any person to install, erect, construct, reconstruct, alter, or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel-burning equipment, incinerator, process equipment, control device, or any equipment pertaining thereto, or any stack or chimney connected therewith, or to make or cause to be made any alteration or repairs which increases the amount of air contaminant emitted by such source or which results in the emission of any air contaminant not previously emitted until application for a construction permit has been filed with the Metropolitan Health Department and plans and specifications applicable to the work have been submitted to the Director and a construction permit issued by him for such construction, installations, alterations or repairs. Applications for a construction permit shall be filed in duplicate in the offices of the Director on forms adopted by the Director and supplied by the Metropolitan Health Department along with a copy of plans and specifications. The Director shall not grant a construction permit to any source which does not comply with the provisions of the New Source Review Regulations as adopted by the Board. If the Director determines, on the basis of information available to him, that such source does, or in all likelihood will, operate in violation of this Chapter, or that the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard, he shall either impose conditions on the face of the construction permit that in his opinion will promote compliance with this Chapter, and/or attainment and maintenance of any national ambient air quality standard, or he shall deny the application for the construction permit. At the request of the Director, the applicant shall provide information necessary for the Director to make the determination of whether the source does, or in all likelihood will, operate in violation of this Chapter, or whether the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard. For a major source, such information required may include a source impact analysis and air quality analysis as set out in regulations adopted by the Board. This Section shall not apply to fuel-burning equipment used exclusively for heating less than three (3) dwelling units, or to gas, or fuel oil equipment of five hundred thousand BTU input or less or to internal combustion engines.
2. In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation, or establishment of any fuel-burning equipment, incinerator, process equipment, or control devices and prior to invoking any such remedies, the person aggrieved thereby shall, upon request in accordance with the provisions of this Chapter and the rules and regulations adopted by the Board be entitled to a hearing. Such hearing shall be conducted pursuant to the contested cases provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, Part 3.
3. The absence or failure to issue a rule, regulation or order pursuant to this Section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

B. Maintenance or repairs or alterations which are minor in scope or do not change the capacity of any fuel-burning equipment, incinerator, process equipment and which do not involve any

change in the method of combustion or materially affect the emission of smoke, dust, gases, fumes, or other air contaminants therefrom may be made without placing an application for construction permit with the Metropolitan Health Department. Emergency repairs may be made prior to the applications in the event an emergency arises and serious consequences would result if the repair were to be deferred. When such repair is made in an emergency, the application as required by this Section shall be filed in the office of the Director within ten days after the start of such work.

- C. The plans and specifications, submitted pursuant to this Section, concerning any fuel-burning equipment, incinerator or process equipment shall show the type, form and dimensions of all equipment and appurtenances thereto and stacks and ducts, together with the description and dimensions of the building or part thereof in which such equipment is to be located, the amount of work or the amount of heating to be done by such equipment and all provisions for securing complete combustion of the fuel or refuse and for reducing or controlling emission of air contaminants. Such plans and specifications shall also show the character of the fuel or refuse to be burned or process material, the maximum quantity to be burned per hour, and the operation requirements of the equipment. The plans and specifications shall show that the room or premises in which fuel-burning equipment or incinerator is to be located is provided with adequate ventilation to provide sufficient air for the combustion process and for the safety of people.
- D. The plans and specifications submitted pursuant to this Section shall be prepared under the direction of, or approved by and bear the seal of, a professional engineer registered in this State or be a graduate of an accredited engineering school and experienced in his field of endeavor.
- E. The requirement for filing plans and specifications involving the installation, erection, construction, reconstruction, alteration, or repair of or addition to, any fuel-burning equipment, incinerator, process equipment, or the building of pilot plants or processes to be used in or to become part of a secret process is suspended upon the filing with the Metropolitan Health Department, in lieu of the filing of plans and specifications, of an affidavit of a responsible person to the effect that such equipment or process is to be so used. Such person may be required by the Board to furnish bond or other proof of financial responsibility. The suspension of the filing of such plans and specifications shall in no way relieve the person or persons responsible for the secret process from complying with all other provisions of this Chapter.
- F. If the installation, erection, construction, reconstruction, alteration, addition or repair is not started within one (1) year of the date of issuance of a construction permit or any extended period granted in writing by the Director, the construction permit shall become void.
- G. Any equipment covered by this Section which is installed, erected, constructed, reconstructed or altered without making application for a construction permit to the Department of Health and receiving this permit as provided herein may be sealed by the Director with the approval of the Board, the seal to remain in effect until all provisions of this Chapter have been complied with. This remedy is not deemed to be the exclusive remedy.
- H. No new source shall be granted a construction permit unless the new source complies with the Metropolitan Zoning Code for the use of the property on which the new source is to be

constructed. For purposes of legal nonconforming uses, in accordance with Tenn. Code Ann. §13-7-208, this requirement shall not apply. The receipt of a construction permit from the Metropolitan Health Department shall not be construed to indicate approval of the strength or safety of any equipment or to indicate compliance with the requirements of the Building Code of Metropolitan Nashville and Davidson County or any other ordinance thereof. Neither shall it relieve anyone from the responsibility to comply fully with the applicable provisions of this Code, nor any other requirement(s) imposed by statute, rule or regulation of the Metropolitan Government of Nashville and Davidson County, Tennessee, the State of Tennessee or the United States Government.

- I. New and modified sources having obtained a valid construction permit in accordance with this Section may operate under the construction permit for the period of time specified within the permit which shall not exceed one hundred and eighty (180) days provided that the Director is notified of the date of startup. Such notification must be submitted in writing within five (5) working days of the date of startup of the new or modified source.
- J. Results of any compliance testing required as a condition of a construction permit must be conducted in accordance with Section 10.56.290, "Measurement of Emissions" and Section 10.56.300, "Testing Procedures" of this Chapter and the test results submitted to the Director within the time period specified on the permit. Failure to demonstrate compliance with the allowable emission standards or any other condition shown on the construction permit shall constitute sufficient grounds for the Director to require changes in the installation before an operating permit can be granted. Responsibility for demonstrating proof of compliance including all expenses incurred in conducting the required compliance tests shall be borne by the owner or operator of the effected facility.
- K. The Director or his authorized representative shall have the right to enter the premises to observe any compliance tests and to inspect the installation and operation of any equipment for which a construction permit was issued.
- L. Any application for a construction permit for a major source received by the Director is subject to objection and comment by the Administrator under the provisions of 42 U.S.C. Section 7661 d., as amended. Therefore, no permit shall be final until the time for objection by the Administrator has expired.
- M. Any failure to act or inaction by the Director within eighteen (18) months after receipt of a complete application for a construction permit may be considered final action for the purpose of any appeal to the Davidson County Chancery Court under T.C.A. Section 27-8-101, et seq., and T.C.A. Section 27-9-101, et seq.
- N. The Director shall, on a monthly basis, notify the public, by advertisement in a newspaper or newspapers of general circulation within the Metropolitan Government area, of the applicants seeking to obtain a permit to construct or modify an air pollution source. This notice shall specify the location of the proposed source or modification, the type of source or modification, and shall provide the opportunity for public comments. The public shall have thirty (30) days from the date of advertisement to submit written comments to the Director.

Attachment 3

SECOND SUBSTITUTE ORDINANCE NO. BL2016-234

An ordinance amending various sections of Chapter 10.56 of the Metropolitan Code of Laws to allow additional information requirements under section 10.56.020.A.1, and to add Metropolitan Zoning Code compliance to the provisions of section 10.56.020H.

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

Section 1. That Chapter 10.56 of the Metropolitan Code of Laws shall be and the same is hereby amended by deleting Section 10.56.020.A in its entirety and substituting in lieu thereof the following new Section 10.56.020.A:

10.56.020 - Construction permits.

A. 1. It is unlawful for any person to install, erect, construct, reconstruct, alter, or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel-burning equipment, incinerator, process equipment, control device, or any equipment pertaining thereto, or any stack or chimney connected therewith, or to make or cause to be made any alteration or repairs which increases the amount of any air contaminant emitted by such source or which results in the emission of any air contaminant not previously emitted until application for a construction permit has been filed with the metropolitan health department and plans and specifications applicable to the work have been submitted to the director and a construction permit issued by him for such construction, installations, alterations or repairs. Applications for a construction permit shall be filed in duplicate in the offices of the director on forms adopted by the director and supplied by the metropolitan health department along with a copy of plans and specifications. The director shall not grant a construction permit to any source which does not comply with the provisions of the New Source Review Regulations as adopted by the board. If the director determines, on the basis of information available to him, that such source does, or in all likelihood will, operate in violation of this chapter, or that the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard, he shall either impose conditions on the face of the construction permit that in his opinion will promote compliance with this chapter, and/or attainment and maintenance of any national ambient air quality standard, or he shall deny the application for the construction permit. At the request of the director, the applicant shall provide information necessary for the director to make the determination of whether the source does, or in all likelihood will, operate in violation of this chapter, or whether the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard. For a major source, such information required may include a source impact analysis and air quality analysis as set out in regulations adopted by the Board. This section shall not apply to fuel-burning equipment used exclusively for heating less than three dwelling units, or to gas, or fuel oil equipment of five hundred thousand BTU input or less or to internal combustion engines.

2. In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation, or establishment of any fuel-burning equipment, incinerator, process equipment, or control devices, and prior to invoking any such remedies, the person aggrieved thereby shall, upon request in accordance with the provisions of this chapter and the rules and regulations adopted by the board be entitled to a hearing. Such hearing shall be conducted pursuant to the contested cases provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, Part 3 (T.C.A. § 4-5-301 et seq.).

3. The absence or failure to issue a rule, regulation or order pursuant to this section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

Section 2. That Chapter 10.56 of the Metropolitan Code of Laws shall be and the same is hereby amended by deleting Section 10.56.020.H in its entirety and substituting in lieu thereof the following new Section 10.56.020.H:

H. No new source shall be granted a construction permit unless the new source complies with the Metropolitan Zoning Code for the use of the property on which the new source is to be constructed. For purposes of legal nonconforming uses, in accordance with Tenn. Code Ann. §13-7-208, this requirement shall not apply. The receipt of a construction permit from the Metropolitan Health Department shall not be construed to indicate approval of the strength or safety of any equipment or to indicate compliance with the requirements of the Building Code of Metropolitan Nashville and Davidson County or any other ordinance thereof. Neither shall it relieve anyone from the responsibility to comply fully with the applicable provisions of this Code, nor any other requirement(s) imposed by statute, rule or regulation of the Metropolitan Government of Nashville and Davidson County, Tennessee, the State of Tennessee or the United States Government.

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

Sponsored by: Fabian Bedne, Jacobia Dowell, Karen Johnson, Tanaka Vercher

LEGISLATIVE HISTORY	
Introduced:	May 3, 2016
Passed First Reading:	May 3, 2016
Referred to:	Codes, Fair, and Farmers' Market Committee Health, Hospitals, and Social Services Committee
Substitute Introduced:	May 17, 2016
Passed Second Reading:	May 17, 2016
Deferred to July 5, 2016:	June 7, 2016
Second Substitute Introduced:	July 5, 2016
Passed Third Reading:	July 5, 2016 - Roll Call Vote
Approved:	July 6, 2016
By:	

**Requests for ADA accommodation should be directed to the Metropolitan Clerk at
615/862-6770.**

Attachment 4



Metro Public Health Dept

Nashville / Davidson County

Protecting, Improving, and Sustaining Health

Megan Barry, Mayor

William S. Paul, MD, MPH, FACP
Director of Health

Board of Health

Samuel L. Felker, JD, Chair
Carol Etherington, MSN, RN, Vice Chair
Thomas W. Campbell, MD
Henry W. Foster, Jr., MD
Francisca Guzmán
Margreete G. Johnston, MD, MPH

August 23, 2016

Ms. Michelle Walker Owenby, Director
Division of Air Pollution Control
William R. Snodgrass Tower, 15th Floor
312 Rosa L. Parks Ave.
Nashville, Tennessee 37243

Aug 23 2016 PM 10:40

Dear Ms. Owenby:

On July 5, 2016, the Council of the Metropolitan Government of Nashville and Davidson County (Council) passed Second Substitute Ordinance No. BL2016-234. The regulatory amendment makes changes to Section 10.56.020, "Construction Permits" of Chapter 10.56, "Air Pollution Control" of the Metropolitan Code of Laws. Changes to the rule include the following:

- Descriptive language that more clearly defines the Director's authority to request additional information when making a determination regarding a source's potential to violate a regulation or a National Ambient Air Quality Standard; and
- A prohibition from granting a construction permit to a new source that does not comply with the Metropolitan Zoning Code for the use of the property on which it is proposed.

At this time, I am including the following for the State's use:

- An underline/strikeout version of Section 10.56.020, "Construction Permits;" and
- A copy of the substitute ordinance, complete with the legislative history and the Mayor's signature.

Council intends for these amendments to be submitted to EPA as a regulatory revision to Metropolitan Nashville and Davidson County, Tennessee's portion of the State Implementation Plan. Therefore, I am requesting that the Tennessee Air Pollution Control Board consider these amendments for inclusion into the State Implementation Plan. In an effort to comply with 40 CFR Part 51, Subpart F, I am requesting that the State fulfill the obligation for public participation found in 40 CFR 51.102 and, if appropriate, the preliminary notice to EPA outlined in 40 CFR 51.103.

During discussions between our programs, the subject of the Certificate of Exemption has been addressed. At this time, I am also requesting that the Tennessee Air Pollution Control Board review Davidson County's Certificate of Exemption in light of these changes to ensure compliance with the relevant laws and regulations.

If there are any questions concerning these matters, please feel free to contact me at (615) 340-0443.

Sincerely,

John Finke, P.E., Director
Metro Public Health Department
Pollution Control Division



Metro Public Health Dept
Nashville / Davidson County
Protecting, Improving, and Sustaining Health

Megan Barry, Mayor

William S. Paul, MD, MPH, FACP
Director of Health

Board of Health

Samuel L. Felker, JD, Chair
Carol Etherington, MSN, RN, Vice Chair
Thomas W. Campbell, MD
Henry W. Foster, Jr., MD
Francisca Guzmán
Margreete G. Johnston, MD, MPH

September 8, 2016

Ms. Michelle Walker Owenby, Director
Division of Air Pollution Control
William R. Snodgrass Tower, 15th Floor
312 Rosa L. Parks Ave.
Nashville, Tennessee 37243

Dear Ms. Owenby:

On August 23, 2016, I sent a letter requesting the Tennessee Air Pollution Control Board to review Davidson County's Certificate of Exemption in light of the changes to Section 10.56.020, "Construction Permits" of Chapter 10.56, "Air Pollution Control" of the Metropolitan Code of Laws. Those changes included the following:

- Descriptive language that more clearly defines the Director's authority to request additional information when making a determination regarding a source's potential to violate a regulation or a National Ambient Air Quality Standard; and
- A prohibition from granting a construction permit to a new source that does not comply with the Metropolitan Zoning Code for the use of the property on which it is proposed.

The current Certificate of Exemption broadly grants authority to Davidson County to enforce our local air pollution regulations, and no additional language appears necessary in the Certificate of Exemption to implement the above-mentioned revisions. However, as a follow-up to that letter and out of an abundance of caution, I would like to clearly specify that, in accordance with T.C.A. 68-201-115(b)(6), I am hereby petitioning the Tennessee Air Pollution Control Board for the additional authority that allows implementing and enforcing zoning provisions as stated in Section 10.56.020 to be added to the Certificate of Exemption for Davidson County.

If there are any questions concerning these matters, please feel free to contact me at (615) 340-0443.

Sincerely,

John Finke, P.E., Director
Metro Public Health Department
Pollution Control Division