



Legislation Text

File #: RES PH 12-68, **Version:** 3

Approving the application of the Metropolitan Council for a sound level variance to allow Central Corridor Light Rail construction between 6:00 AM and 12:00 midnight from March 8, 2012 to November 30, 2012 along University Avenue from Hamline Avenue to Robert Street.

WHEREAS, Chapter 293 of the Saint Paul Legislative Code was enacted to regulate the subject of noise in the City of Saint Paul; and

WHEREAS, §293.09 provides for the granting of variances from the sound level limitations contained in §293.07, upon a finding by the City Council that full compliance with Chapter 293 would constitute an unreasonable hardship on the applicant, other persons or on the community; and

WHEREAS, Kevin Ryan, Manager of Transitways Construction, Metropolitan Council, who has been designated as the responsible person on the application, has applied for a variance to allow Central Corridor Light Rail construction along University Avenue from Hamline Ave to Robert Street in Saint Paul; and

WHEREAS, in order to minimize disruption to businesses, the public and adjoining property owners, the applicant is seeking a variance for the hours of 7:00 AM to 10:00 PM, the ability to work for two (2) shifts between the hours of 6:00 AM to 12:00 midnight and a limited number of extended work hours between 10:00 PM to 7:00 AM from March 8, 2012 to November 30, 2012; and

WHEREAS, if applicant is not granted a variance it will not be able to complete construction within a timeline that would minimize disruption to businesses, the public and adjoining property owners; and

WHEREAS, the Department of Safety and Inspections has reviewed the application and has made recommendations regarding conditions for the variance; now, therefore, be it

RESOLVED, that the Council of the City of Saint Paul hereby grants a variance to the Metropolitan Council, subject to the following conditions:

- 1) The variance shall be for the hours of 7:00 AM to 10:00 PM, including double shift hour segment areas with construction hours that shall consist of two (2) work shifts between the hours of 6:00 AM to 12:00 midnight and for extended work hours between 10:00 PM and 7:00 AM from March 8, 2012 to June 15th, 2012.
- 2) University Avenue from Hamline Ave to Robert Street shall be divided into the following double shift hour areas: Segment 1 - Hamline Ave. to Lexington Ave., Segment 2 - Lexington Ave. to Milton St., Segment 3 - Milton St. to Dale St., Segment 4 - Dale St. to Western Ave., and Segment 5 - Western Ave. to Rice St. Work in each segment will consist of a north phase and a south phase.
- 3) The Council of the City of Saint Paul hereby grants the Department of Safety and Inspections the authority to approve double shift hours and extended work hour sound level variance requests.
- 4) The Department of Safety and Inspections may approve up to fifteen (15) extended work hour time periods requested by the Metropolitan Council during the time period set by this sound level variance. The hours of 10 PM to 7 AM shall be considered one extended work hour time period. If the Metropolitan Council

finds that additional extended work hour periods are needed, the Metropolitan Council may request that City Council grant additional time periods without the need for a public hearing.

- 5) When double shift hours or extended work hours are needed, the Metropolitan Council shall submit an Extended Work Request to the Department of Safety and Inspections (DSI).
- 6) The process for requesting double shift hours or extended work hours shall be as follows:
 - A. Metropolitan Council shall submit the Extended Work Request in writing to the Department of Safety and Inspections for each double shift hour segment and for each extended work hour location. The Extended Work Request must be received by the Department of Safety and Inspections;
 1. A minimum of four (4) work days before the property owner notification date in D for a double shift hour segment request.
 2. A minimum of two (2) work days before the property owner notification date in D for an extended work hour request.
 - B. The request shall be on a form approved by DSI and include, but not be limited to:
 1. Start and end date, start and end time, work location (start and end points for segments), type of work being done, description and listing of expected noise sources such as generators, air compressors, jackhammers, excavators, skid loaders, etc. that will be used.
 2. The name and phone number of a specific contact person for the work being done including the name and phone number of the on-site person in charge.
 - C. Within four (4) work days of receiving a double shift hour segment request or two (2) working days of receiving an extended work hour request, the Department of Safety and Inspections, shall, in consultation with Department of Public Works and City Councilmember(s) representing the area(s) affected by the request, review and approve or deny the specific request and forward the determination to the Metropolitan Council.
 - D. If the request is approved, the Metropolitan Council shall notify in writing, all property owners within 200' of proposed work location.
 1. Notification shall be a minimum of seven (7) days prior to the start of the work for double shift hour requests.
 2. Notification shall be a minimum of three (3) days prior to the start of the work for extended work hour work requests
 - E. When there are properties with residential uses near an extended work hour request area, the Metropolitan Council must, as part of the extended work request, obtain documented approval of at least 60 percent of the households within 100 feet of the requested work area . If less than 60 percent of the households approve, DSI must deny the request. Extended work requests that are near areas of dense residential uses may be denied.
 - F. The Metropolitan Council property owner notification shall include, but not be limited to, the specific date, time period, location, operation description and listing of expected noise sources such as

generators, air compressors, jackhammers, excavators, skid loaders, etc. that will be part of EWR. Notices shall also include the following statement: "Rental property owners must provide a copy of this notice to all renters or post a copy in a common area of the building so it can be viewed by the occupants."

- G. If there is an emergency, where immediate work is necessary to restore property to a safe condition or to protect persons or property from an imminent exposure to danger, the Metropolitan Council or its designee, shall notify the Department of Safety and Inspections and make a good faith effort to inform property owners and occupants of properties within 200 feet of the work location. Notification of the Department of Safety and Inspections and property owners/occupants may be done after the work has begun or if possible, before the work has started.
- 7) The Contractors and Utility Companies working on the project shall use best practicable methods for controlling noise. Construction activities shall be scheduled to minimize noise as much as possible in the hours between 6:00 AM to 7:00 AM and between 10:00 PM and midnight. All loud activities such as jackhammers and saw cutting will be performed during the hours of 8:00AM and 9:00PM. Work in double shift hour segments will be conducted so as to limit the number of consecutive nights work will occur in front of any single address to approximately three (3) nights.
- 8) The Metropolitan Council must provide copies of the approved Double Shift Hour or Extended Work Hour Request to all contractors and utility companies that will be working between 10:00 PM and 7:00 AM. Copies of the approved request must be maintained at the work location and be available for review by the City of Saint Paul Police or inspection personnel during the time period approved. Failure to have a copy of the approved request available at the work location may result in a citation and/or shut down of work activities.
- 9) The Department of Safety and Inspections may, at its discretion, withdraw approval of any double shift hour or extended work hour request.

FURTHER RESOLVED, that any violations of the conditions set above may result in denial of future requests for the grant of a sound level variance, in addition to any criminal citation which might issue.

The Metropolitan Council, represented by Kevin Ryan, Manager of Transitways Construction, has requested an exemption from the sound level limitations in Chapter 293.07 in order to allow Central Corridor Light Rail construction between 6:00 AM and 12:00 midnight from March 8, 2012 to November 30, 2012 along University Avenue from Hamline Avenue to Robert Street in Saint Paul. Chapter 293.09 provides for the granting of variances from the sound level limitations contained in Chapter 293.07.

Was proper notice given? YES - See Attachments