



## Legislation Text

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**File #:** RES PH 12-93, **Version:** 2

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Approving the application of Metropolitan Council for a sound level variance in order to allow Central Corridor Light Rail construction, with limitations, between 10:00 PM and 7:00 AM from April 5, 2012 to November 30, 2012 along University Avenue from Emerald Street to Hamline Avenue.

### **AMENDED 4/04/12**

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 ~~Cedar Street between 4<sup>th</sup> Street East and 7<sup>th</sup> Street East~~ University Avenue from Emerald Street to Hamline Avenue; 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 10:00 PM to 7:00 AM for up to twenty-five (25) occurrences; 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 up to twenty-five (25 ~~20~~) extended work periods of 10:00 PM to 7:00 AM from April 5, 2012 to ~~November 30~~ July 15, 2012 along University Avenue from Emerald Street to Hamline Avenue.
- 2) The Council of the City of Saint Paul hereby grants the Department of Safety and Inspections the authority to approve extended work hours.
- 3) The Department of Safety and Inspections may approve up to twenty-five (25 ~~20~~) extended work hour time periods requested by the Metropolitan Council during the time period set by this sound level variance. The hours of 10:00 PM to 7:00 AM shall be considered one extended work hour time period. If the Metropolitan Council finds that additional extended work periods are needed, the Metropolitan Council may request that City Council grant additional time periods without the need for a public hearing.
- 4) When the 10:00 PM to 7:00 AM work hours are needed, the Metropolitan Council shall submit an extended

work hour request to the Department of Safety and Inspections.

- 5) The process for requesting work hours between 10:00 PM and 7:00 AM shall be as follows:
- A. Metropolitan Council shall submit a request in writing to the Department of Safety and Inspections a minimum of two (2) work days before the property owner notification date in E.
  - B. The request shall include, but not be limited to the start and end date, start and end time, work location, type of work being done, description and listing of expected noise sources such as generators, air compressors, excavators, skid loaders, etc. that will be used.
  - C. The extended work hour request shall also include the name and phone number of the on-site person in charge for the work being.
  - D. Within 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.
  - E. If the request is approved, the Metropolitan Council shall notify in writing, all property owners within 200' of proposed work location. Notification shall be a minimum of three (3) days prior to the start of the work. Notification as required by this section does not apply to rail pulling processes which are reduced noise activities.
  - ~~E~~F. Except for rail pulling activities, w 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, the Department of Safety and Inspections must deny the request. When working around residentially used property, work crews doing rail pulling will take extra care to prevent any disturbing noises. Extended work requests that are near areas of dense residential uses may be denied.
  - ~~F~~G. 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, excavators, skid loaders, etc. that will be used during the extended work hours. 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~~H. 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.
- 76) 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.
- 87) The Metropolitan Council must provide copies of the approved 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.

98) 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 for up to twenty-five (25 ~~20~~) occurrences between 10:00 PM and 7:00 AM, from April 5, 2012 to November 30, 2012 along University Avenue West, between Emerald Street and Hamline Avenue in Saint Paul. A process is provided for requesting additional occurrences if needed. All jack hammering, saw cutting and similarly loud activities will not be permitted during the extended work hours. 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