



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2021-793, **Version:** 1

An ordinance amending Section 13.08.030 of the Metropolitan Code with respect to liability insurance coverage requirements in connection with certain public right of way encroachments.

WHEREAS, section 13.080.030(C) of the Metropolitan Code of Laws requires that any person, firm, or entity seeking to construct, install, operate, or maintain an encroachment in the public right of way provide a liability insurance policy protecting the Metropolitan Government's interests; and

WHEREAS, the insurance requirement limits the ability of legally-constituted homeowner associations and community groups to engage in beautification projects and install beneficial signage; and

WHEREAS, excluding such neighborhood associations and similar entities from the insurance requirement of Metropolitan Code of Laws § 13.08.030(C) would benefit the Metropolitan Government.

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

Section 1. Subsection 13.08.030(C) of the Metropolitan Code of Laws shall be replaced in its entirety with the following:

C. The manner of constructing, installing, operating and maintaining such encroachment shall be subject to the requirements, direction, and approval of the director of public works and further the person, firm, or entity requesting such encroachment, permit, or privilege shall provide a liability insurance policy in such amount as directed by the metropolitan attorney and in the form as approved by the metropolitan attorney, to save the Metropolitan Government harmless from all claims for damages that may result to person or property by reason of construction, operation, or maintenance of such installation of any encroachment. Provided, however, that (i) a homeowner association legally constituted under Tennessee Law or (ii) a non-profit community organization exempt from taxation under section 501(3)(c) of the Internal Revenue Code may, without providing such insurance, install or construct an encroaching beautification project or sign if the director of public works has approved and determined in writing that installation of such project or sign is in the public interest and poses no risk of harm to the public.

Section 2. This Ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

The Metro Code of Laws requires anyone constructing, installing, operating, and maintaining an encroachment in the right-of-way to provide a liability insurance policy to save the Metro Government harmless from all claims resulting from the encroachment.

This ordinance amends the Metro Code of Laws to allow legally constituted homeowners associations and nonprofit organizations exempt from taxation under 501(c)(3) of the Internal Revenue Code to install or

construct an encroaching beautification project or sign in the right-of-way if the director of public works has approved and determined in writing that such project is in the public interest and poses no risk of harm to the public.