



# Metropolitan Nashville and Davidson County, TN

## Legislation Text

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An ordinance amending Metropolitan Code Section 5.20.100 regarding the abatement of property taxes for certain improvements or restorations made to historic properties as authorized under the provisions of Tennessee Code Annotated Section 67-5-218.

WHEREAS, the Metropolitan Council approved Ordinance No. BL2019-3 on August 3, 2021, amending Metropolitan Code Chapters 5.20 and 17.40 to authorize the Metropolitan Government of Nashville and Davidson County to come under the provisions of Tennessee Code Annotated Section 67-5-218, thereby establishing a Historic Property Review Board empowered to abate property taxes relating to certain improvements or restorations made to historic properties; and

WHEREAS, the Metropolitan Council approved Ordinance No. BL2021-864 on September 21, 2021, amending Metropolitan Code Section 5.20.100 by establishing an annual maximum amount or cap upon the cumulative value of improvements made to, or restorations of, any structure for which historic property tax abatements may apply; and

WHEREAS, multiple property owners have applied for the tax abatement through the historic property review board exceeding the established cap to improve and restore notable historic commercial properties and to restore historic properties damaged in the 2nd Avenue Christmas bombing; and

WHEREAS, extension of the program to historic structures damaged by unanticipated future disasters will help preserve such structures that might otherwise be demolished if restoration is cost prohibitive; and

WHEREAS, the initial success of the program and the number of identified historic properties which can be protected and preserved through the program warrants the extension of the time period for which historic property tax abatements may be applied.

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

Section 1. That subsection 5.20.100 D of the Metropolitan Code is hereby amended by replacing the subsection with the following:

D. The cumulative maximum value of improvements made to, or restorations of, all structures for which historic property tax abatements may apply pursuant to this Section in any one (1) fiscal year shall be no greater than twenty million dollars.

Section 2. That a new subsection shall be added to section 5.20.100 of the Metropolitan Code as follows:

\_\_. The cumulative maximum value of restorations of all structures damaged whether by a natural disaster, manmade disaster or any other cause or causes beyond the owner's reasonable control for which historic property tax abatements may apply pursuant to this Section in any one (1) fiscal year shall be no greater than ten million dollars.

Section 3. That subsection 5.20.100 F of the Metropolitan Code is hereby amended by replacing the subsection with the following:

F. The provisions of this Section, including authorization for the establishment of a historic property review board and the abatement of property taxes, shall expire and be of no further force and effect as of July 1, 2032, unless extended by resolution of the metropolitan council.

Section 4. Be it further enacted that this ordinance take effect immediately after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

#### Analysis

This ordinance, as amended, amends Metropolitan Code of Laws Section 5.20.100, which established a property tax abatement program for certain improvements or restorations made to historic properties. T.C.A. § 67-5-218 authorizes local governments to establish a historic properties review board, and to establish tax abatement programs for historic properties through such board. T.C.A. § 67-5-218 further allows a property tax exemption on the value of improvements made to properties certified by a historic properties review board.

If any structure receiving a historic properties tax exemption is demolished or significantly altered during the period of exemption, the exemption of the improved value will immediately terminate and the owner would be liable at that time for the full property tax value.

The Metropolitan Historic Zoning Commission serves as the historic properties review board for Nashville and Davidson County.

In September 2021, the Council approved Ordinance No. BL2021-864 which amended this provision to create a cap of \$10 million for the cumulative maximum value of improvements made to, or restorations of, any structure for which historic property tax abatements may apply in one fiscal year. That ordinance also provided that the provisions of Metropolitan Code of Laws Section 5.20.100, including authorization for the establishment of a historic property review board and the abatement of property taxes, expires July 1, 2024 unless extended by a resolution of the Council.

The ordinance under consideration increases the cap for the cumulative value of improvements made to, or restorations of, any structure for which historic property tax abatements in any one fiscal year from \$10 million to \$20 million. The ordinance also creates a new category for improvements made to structures damaged by the December 25, 2020 bombing on Second Avenue. The cap for the cumulative value of these damaged properties is \$40 million. The ordinance further requires the Historic Zoning Commission to submit a report to the Council on or before November 30 of each year. Finally, the ordinance extends the date of when these provisions expire to July 1, 2032, unless extended by a resolution of the Council.

T.C.A. § 67-5-218 was enacted by the Tennessee General Assembly in 1976. A Tennessee Attorney General opinion from 1982 called into question the constitutionality of the statute since Article II, Section 28, of the Tennessee Constitution specifies the categories for which the General Assembly can authorize a property tax exemption. However, this statute has never been challenged in court and the statute was never repealed. At least one other jurisdiction in Tennessee has implemented the statute at the local level.

*Fiscal Note: If the maximum cumulative value for the general historic property tax abatement category were met, based upon the current tax rate for commercial property in the Urban Services District, the abatement*

would be \$260,320 for one year of the program. If the maximum cumulative value for historic properties damaged by the December 25, 2020, bombing category were met at one time, based upon the current tax rate for commercial property in the Urban Services District, the abatement would be \$520,640 for one year of the program. The total potential abatement over the life of the program for both categories, based upon the current tax rate for commercial property in the Urban Services District, would be \$31,238,400.