

Metropolitan Charter Amendments To Be Placed on November 6, 2018 Ballot

Amendment 1

Summary

This amendment would establish The Metropolitan Government of Nashville and Davidson County Community Oversight Board (“Board”) consisting of 11 members, to be operational no later than January 31, 2019. The Board would have the independent power to investigate allegations of misconduct against Metropolitan Nashville Police Department (“MNP”) officers. The Board would have the power to issue reports assessing allegations of misconduct by MNP officers and make policy recommendations to public safety and justice administration agencies. The Board can recommend that discipline be given within the parameters of civil service rules when it finds a basis to believe that an officer has committed misconduct. The Board has the option of forwarding findings of criminal misconduct and civil rights violations to the District Attorney, the Grand Jury, or the United States Attorney. The Board must submit to the mayor an annual budget request of no less than \$1,500,000.00, and the Metropolitan Council must determine if this amount is sufficient for the operation of the Board and staff. No later than March 29, 2019, and through a special appropriation, the Board must be fully operational and staffed by sufficient personnel in order to carry out its duties.

Full Language

Article 11 of The Metropolitan Government of Nashville and Davidson County shall be amended by adding Chapter 13 to the following new paragraph at the end thereof:

“Sec. 11.1301 – Created; qualifications, term and selection of members

There is hereby created The Metropolitan Government of Nashville and Davidson County Community Oversight Board, sometimes in this chapter called “the Board,” to be operational no later than January 31, 2019. The Board shall consist of eleven (11) Members, who are residents of Davidson County and shall serve three (3) year terms without compensation. The Board members must have a demonstrated knowledge of issues pertaining to civil rights and equity, and must have experience with criminal justice and policing practices. Board members are to receive related orientation and training, including the completion of Metropolitan Nashville’s Citizen Police Academy or an equivalent training, and ongoing civil rights and equity training from entities concerned with police oversight. Ineligible persons for the Board and the supporting staff include current employees of any law enforcement agency; anyone who has served in a law enforcement capacity in the past five years; any elected official; and the spouses of the foregoing persons. Seven (7) of the Board members shall be persons who are nominated by community organizations or private petition signed by fifty (50) Davidson County residents and approved by majority vote of the Council. At least four (4) of the seven (7) members must reside in economically distressed communities. Two (2) of the members shall be persons who are nominated by Council Representatives, and then approved by majority vote of the Council. Two (2) of the members shall be persons who are nominated by the Mayor, and then approved by majority vote of the Council. Except for the initial appointees who shall serve at least a one-year (1) term, the successive Board members shall serve staggered three-year terms. The initial Board members shall develop rules for determining staggered terms for the succeeding appointees to the Board.

Section 11.1302 – Powers and duties

The Board shall have the following powers and duties, and shall by majority approval adopt procedures for their implementation:

1. The Board shall have the power to investigate allegations that MNPD officers have committed misconduct against members of the public, as well as issue policy advisory and resolution reports assessing allegations of misconduct by MNPD, recommendations to agencies involved in public safety and the administration of justice, and have the option of establishing a monitoring program that provides an ongoing review or audit of the complaint process administered by the MNPD Office of Professional Accountability (“OPA”) or equivalent internal affairs program in MNPD.
2. Where the Board finds a basis to believe that an officer has committed misconduct in violation of MNPD policy, the Board may refer such matter to the MNPD OPA and recommend that discipline be given within the parameters of civil service rules and regulations of article 12 of this Charter. MNPD shall be required to respond to the Board’s disciplinary recommendations in writing.
3. The Board has the option of forwarding resolution reports that produce factual findings of criminal misconduct and civil rights violations to the District Attorney, the Grand Jury, or the United States Attorney.
4. The Board shall have all powers, including the power to compel, afforded to other metropolitan government agencies, Boards, and entities identified in Section 18.10 of the metropolitan government Charter.
5. The Board shall submit to the mayor, through the director of finance, an annual budget request of no less than \$1,500,000.00 beginning and after the fiscal year 2019-2020, and it shall be the duty of the council to determine if this amount is sufficient for the operation of the Board and staff.

Sec. 11.1303 – Support Staff and Personnel

No later than March 29, 2019 and through a special appropriation lasting through the end of the fiscal year, the Board shall be fully operational and staffed by sufficient members of personnel in order to promptly, competently, and thoroughly carry out its duties. The salaries and benefits of the following support staff and personnel shall be as fixed in the pay plan adopted pursuant to article 12 of this Charter: Executive Director, Assistant Executive Director, a minimum of three investigators to investigate alleged misconduct and factual matters relevant to the development of policy advisory and resolution reports, a minimum of two research analysts, a minimum of one community engagement liaison to receive and solicit input from community members, and a legal resource advisor.”

Amendment 2

Summary

This amendment would revise the line of succession for the office of mayor by calling for a council election of a temporary mayor in the absence of the vice mayor and further prohibit that temporary mayor from seeking election in the next election for mayor or vice mayor.

Full Language

I. Section 5.05 of Article 5 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by deleting the provision in its entirety and substituting in lieu thereof the following new provision:

“Section 5.05 - Election of vice mayor; presiding officer of council; succession beyond vice mayor.

The vice mayor shall be elected for a term of four (4) years and until his or her successor is elected and qualified. He or she shall possess the qualifications of the mayor and shall be compensated at the rate of forty-two hundred (\$4,200) dollars per annum, payable semi-monthly. In the event the office of mayor becomes vacant, the vice mayor shall serve as mayor and be compensated as such until the vacancy is filled as provided in section 15.03 of this Charter. If the vice mayor becomes unable or unwilling to serve as mayor, the council shall nominate and elect a successor to serve as mayor until a mayor is subsequently qualified and elected. The successor:

- A. shall be elected by winning a majority of votes, where “majority” is defined as one vote more than half of all the members to which the council is entitled with the exception of any seat which is vacant. If no nominee receives a majority of the votes, the nominee who receives the lowest number of votes shall be eliminated (or, in the event of a tie for last place, all nominees obtaining that number of votes shall be eliminated) and another round of voting shall be held. This process will continue until a nominee receives a majority of votes. In the event of a tie where all candidates receive the same number of votes, a ten-minute recess shall be called and another vote shall be held with the same nominees eligible to receive votes;
- B. shall be legally qualified to hold office as mayor per Section 5.02 of this Charter; and
- C. shall not be eligible to file a nominating petition for the subsequent election for mayor or the subsequent election for vice mayor.”

Amendment 3

Summary

This amendment would require a special election for mayor when more than twelve (12) months remain in the unexpired term, for vice mayor when more than twenty-four (24) months remain in the unexpired term, and for district council member when more than eight (8) months remain in the unexpired term and clarify that no special election for councilmember-at-large be held.

Full Language

I. Section 15.03 of Article 15 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the provision in its entirety and substituting in lieu thereof the following new provision:

“Section 15.03 – Elections subsequent to vacancies

- A. Whenever a vacancy in the office of mayor shall exist more than twelve (12) months prior to the expiration of the term, a special election shall be held in accordance with Tennessee Code Annotated section 2-14-102.
- B. Whenever a vacancy in the office of vice mayor shall exist more than twenty-four (24) months prior to the expiration of the term, a special election shall be held in accordance with Tennessee Code Annotated section 2-14-102.
- C. Whenever a vacancy in the office of district council member shall exist more than eight (8) months prior to the expiration of the term, a special election shall be held in accordance with Tennessee Code Annotated section 2-14-102.
- D. Whenever a vacancy in the office of councilmember-at-large shall exist, no special election shall take place and the office shall remain vacant for the remainder of the term.
- E. Whenever a special election is called for by this section, such special election shall be ordered by the county commissioners of elections and they shall give notice thereof as provided by Tennessee Code Annotated section 2-14-105.
- F. If in such a special election to fill a vacancy for the unexpired term of the office of mayor, no candidate shall receive a majority of all the votes cast for such office, a runoff election shall be held five (5) weeks subsequent to the first special election to fill a vacancy in accordance with the provisions hereinbefore set forth in the case of a general metropolitan election. In the event that the date prescribed for the runoff election falls on a major holiday or creates other major logistical concerns, the Election Commission shall be empowered to schedule the election no more than two days prior to the prescribed date.
- G. If in such a special election to fill a vacancy for the unexpired term of the office of vice mayor or district council member no candidate shall receive a majority of all the votes cast for such office, a runoff election shall be held in the manner prescribed in Part F of this section.
- H. The provisions of section 15.01 hereof with respect to voting in general metropolitan elections and with respect to qualifying as a candidate shall apply to special elections at which time a vacancy is filled.
- I. Any unfilled vacancy in existence at the time of the adoption of this amendment, and any subsequent vacancy, shall be subject to the provisions of this section.”

Amendment 4

Summary

This amendment would require the oaths of office for Mayor, Vice Mayor, and Members of Council to include an oath to uphold the Charter of the Metropolitan Government of Nashville.

Full Language

I. Part I, Article III of the Metropolitan Charter shall be amended by inserting into Article III a new subsection 3.08 Oath of Office as follows:

“Sec. 3.08. Oath of Office.

Each person who shall be elected as a member of council, shall, before entering on the duties of that office, take an oath to support the Constitution of this State, the Constitution of the United States, and the Charter of the Metropolitan Government of Nashville and Davidson County.”

II. Part I, Article V of the Metropolitan Charter shall be amended by inserting into Article V a new subsection 5.08 Oath of Office as follows:

“Sec. 5.08. Oath of Office.

Every person who shall serve in the office of mayor or vice mayor, shall, before entering on the duties of that office, take an oath to support the Constitution of this State, the Constitution of the United States, and the Charter of the Metropolitan Government of Nashville and Davidson County.”

Amendment 5

Summary

This amendment would revise current term limits for the office of district councilman and councilman at large. The current term limitation of two (2) terms would be expanded to three (3) terms for these offices. Gender neutral terms would also be applied (“councilmember” in lieu of “councilman”).

Full Language

I. Section 1.07 of Article 1 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by deleting subsection A in its entirety, substituting in lieu thereof the following new subsections A and B, and re-numbering the remaining subsections as necessary:

Sec. 1.07. - Term limits.

- A. No person elected and qualified to the office of mayor or vice mayor shall be eligible for the succeeding term in the same office if such person has served more than one-half of a four (4) year term and a consecutive complete four (4) year term in that particular office.
- B. No person elected and qualified to the office of district councilmember, or councilmember-at-large shall be eligible for the succeeding term in the same office if such person has served more than one-half of a four (4) year term and two consecutive complete four (4) year terms in that particular office. For purposes of this section, the offices of district councilmember and councilmember-at-large, as established pursuant to section 3.01 of this Charter, shall be considered separate elected offices.
- C. In January prior to each state legislative session until such a time that it can be certified that the legislative term limits described in this clause have been enacted, the clerk shall write all state legislators whose districts include any part of Davidson County stating that the people of Davidson County desire an opportunity to vote on legislative term limits. The people of Davidson County respectfully request that a proposed constitutional amendment limit each Representative to six (6) years (three (3) terms) in the Tennessee House of Representatives and eight (8) years (two (2) terms) in the Tennessee Senate. The people of Davidson County also instruct all state legislators representing any part of Davidson County to pass this proposed constitutional amendment and place it on the general election ballot.
- D. In January of each year until such a time that it can be certified that the term limits described in this clause have been enacted, the clerk shall write all U.S. Representatives whose districts include any part of Davidson County's limits and both federal Senators stating that the people of this municipality support term limits for the U.S. Congress. The people of Davidson County respectfully request that a proposed federal constitutional amendment limit each Representative to six (6) years (three (3) terms) in the United States House of Representatives and twelve (12) years (two (2) terms) in the United States Senate. The people of Davidson County also instruct their federal delegation to pass a constitutional amendment imposing these limits and submit it to the states for ratification.
- E. If any provision of this petition shall be held unconstitutional, invalid or inapplicable to any persons or circumstances, then it is intended and declared by the people of Davidson County that all other provisions of this petition and their application to all other persons and circumstances shall be severable and shall not be affected by such decision.

Amendment 6

Summary

This amendment would update the Metropolitan Charter with gender neutral references in place of masculine-only pronouns. References to “he” would be changed to “he or she”; “his” would be changed to “his or her”; “him” would be changed to “him or her”; “councilman” and councilmen” would be changed to “councilmember” and “councilmembers” respectively; and “policemen” would be changed to “police officers.”

Full Language

- I. The Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by replacing every instance of “he” (unless followed by “or she”) with “he or she”, by replacing every instance of “his” (unless followed by “or her”) with “his or her”, and by replacing every instance of “him” (unless followed by “or her”) with “him or her”.
- II. The Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by replacing every instance of “councilman” with “councilmember”, and by replacing every instance of “councilmen” with “councilmembers”.
- III. The Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by replacing every instance of “policemen” to “police officers”.

***** This Document is NOT the sample ballot. *****