Substitute Resolution No. RS2022-1475

A resolution providing amendments to the Charter of the Metropolitan Government of Nashville and Davidson County, Tennessee, in accordance with Article 19, Section 19.01 thereof, and setting forth a brief description of each amendment to be placed upon the ballot.

WHEREAS, Article 19, Section 19.01 of the Charter of The Metropolitan Government of Nashville and Davidson County, Tennessee provides that the Metropolitan Government shall not adopt a resolution proposing amendments to the Charter more often than twice during the term of office of members of the Metropolitan Council; and

WHEREAS, Article 19, Section 19.01 of the Charter further requires to be set forth in the adoption resolution a brief description of each amendment so worded so as to convey the meaning of said amendment; and

WHEREAS, it is the desire of the Metropolitan Council by adopting this resolution to fulfill these two Charter requirements.

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

Section 1. Pursuant to the provisions of Article 19, Section 19.01 of the Charter of the Metropolitan Government of Nashville and Davidson County, the proposed amendments to the Charter of the Metropolitan Government of Nashville and Davidson County, attached hereto, are submitted to the people for approval in the manner provided by Section 19.01 of the Charter.

Section 2. The date prescribed for holding of the referendum election at which the electorate of the Metropolitan Government will vote to ratify or reject the amendments proposed in Section 1 of this Resolution shall be August 4, 2022.

Section 3. This Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

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Angie Henderson
Member of Council

AMENDMENT NO. 1

Article 19 of the Charter of the Metropolitan Government of Nashville and Davidson County is amended by deleting it in its entirety and replacing it with the following:

Sec. 19.01. - Amending the Charter

This Charter may be amended by (a) adoption of a resolution by the council or (b) petition meeting the requirements of section 19.03, where such resolution or petition has been approved by referendum election conducted pursuant to section 19.04. Amendments may also be adopted in such other manner as may be provided by general law for amending the Charter of a metropolitan government.

Sec. 19.02. – Amendment by Council Resolution

(a) The council may initiate amendments to this Charter by resolution, which for each amendment shall contain (1) the title of the proposed amendment; (2) an explanatory summary of the proposed amendment not to exceed two hundred (200) words; (3) the text of the proposed amendment; and (4) a statement of the financial impact of the proposed amendment. A proposed amendment cannot contain more than one subject as determined using the standard provided in Article 2, Section 17 of the Tennessee Constitution. A proposed amendment cannot be identical or substantially similar to a proposed amendment rejected by the voters of Nashville-Davidson County at an election held within two (2) years before the resolution was filed.

(b) Prior to adopting such resolution, the council shall submit the resolution to the charter revision commission for review. No later than thirty (30) days after receipt of the resolution, the Commission, acting in an advisory capacity, shall provide the council its report and recommendations on the resolution, including whether the proposed amendment satisfies the requirements in this Charter, including Section 19.03(c) for certification of a petition.

(c) A resolution to amend this Charter must receive an affirmative vote for adoption by not less than two-thirds of the membership to which the council is entitled. Such resolution when adopted need not be submitted to the mayor for approval.

(d) The council shall not adopt a resolution proposing amendments to this Charter more often than twice during the term of office of members of said council.

(e) The council shall not adopt, except pursuant to section 18.06 of this Charter, a resolution which proposes an amendment that redistricts the councilmanic districts unless the same be incidental to a proposed change in the number of such districts.

Sec. 19.03. – Amendment by Petition

(a) The registered voters of Nashville-Davidson County may initiate an amendment to this Charter by petition. No more than one referendum initiated by petition to amend the Charter shall be placed on a ballot within any two-year period.

(b) Before a petition may be circulated, at least one registered voter of Nashville-Davidson County shall file the petition with the metropolitan clerk: (1) the title of the proposed amendment; (2) an explanatory summary of the proposed amendment not to

exceed two hundred (200) words; (3) the text of the proposed amendment; and (4) a statement of the financial impact of the proposed amendment.

(c) The charter revision commission shall certify whether the petition satisfied the requirements of this Section 19.03(c) within thirty (30) days after the filing of the documentation required by Section 19.03(b). The petition shall not be certified if: (1) controlling legal authority establishes that the proposed amendment is unconstitutional; (2) the proposed amendment facially conflicts with or is inconsistent with federal or state law; (3) the substance of the proposed amendment is not subject to a referendum under state law or this Charter; (4) the proposed amendment fails to convey a reasonable certainty of meaning; (5) the proposed amendment contains more than one subject as determined using the standard provided in Article 2, Section 17 of the Tennessee Constitution; (6) the subject of the proposed amendment is not clearly expressed in its title; or (7) the petition or amendment fails to satisfy other requirements under this Charter or the Metropolitan Code.

The individual or individuals filing the petition shall have fifteen (15) days to cure any defects in the petition or amendment identified by the charter revision commission by filing the revised petition in proper form with the metropolitan clerk. The commission shall determine within fifteen (15) days whether or not to certify the revised petition.

(d) A decision by the charter revision commission to certify or not certify a petition may be appealed to the Chancery Court for Davidson County upon the filing by any affected party of petition for common-law writ of certiorari within thirty (30) days after the decision of the charter revision commission.

If no timely action has been filed challenging its decision to certify a petition, the charter revision commission shall notify the individual or individuals filing the petition and file the petition with the metropolitan clerk, at which time the petition may be circulated for signatures.

(e) Petitions shall be signed by at least ten percent (10%) of those registered to vote in Nashville-Davidson County as of the date on which the charter revision commission files the certification of the petition with the metropolitan clerk. The disqualification of one (1) or more signatures shall not render a petition invalid, but shall disqualify such signatures from being counted towards the minimum number of signatures required. Each petition shall contain only the following: (1) the petition language certified by the charter revision commission; (2) the genuine signature and address of registered voters; (3) the printed name of each signatory; and (4) the date of signature.

Completed petitions shall be filed with the metropolitan clerk within ninety (90) days after the charter revision commission files the certification of the petition with the metropolitan clerk. The filing of any legal action regarding the petition after the certification has been filed with the metropolitan clerk shall not extend this deadline.

(f) The metropolitan clerk shall immediately deliver the completed petitions to the Davidson County Election Commission. The Davidson County Election Commission shall verify: (1) the genuine signature; (2) that the current address matches the voter's registered address; (3) the printed name; and (4) that the date of signature of each person who signed the petition is after the charter revision commission's certification to the

metropolitan clerk; and (5) that each person who signed the petition is a current registered voter of Nashville-Davidson County. The commission shall not verify or count signatures appearing on petitions that do not strictly conform to the petition language certified by the charter revision commission.

Within thirty (30) days after receiving the completed petitions from the metropolitan clerk, the Davidson County Election Commission shall publicly certify the number of current registered voters of Nashville-Davidson County who signed the petition. The Commission shall file with the metropolitan clerk a written certification of the number of eligible registered voters of Nashville-Davidson County who signed the petitions. The signed petitions shall remain in the custody of the Davidson County Election Commission and shall be deemed to be county public records available for inspection or copying by any interested party in accordance with applicable laws.

The Davidson County Election Commission's action on the petitions may be appealed to the Chancery Court for Davidson County upon the filing by any affected party of a petition for common-law writ of certiorari within thirty (30) days after the Davidson County Election Commission files its certification with the metropolitan clerk.

Sec. 19.04. – Referendum Election

(a) Any referendum on amending the Charter that complies with the requirements in Section 19.02 or 19.03 shall be placed on the ballot for the next regularly scheduled August or November metropolitan, county, or state general election occurring more than ninety (90) days after the Davidson County Election Commission's certification of the signatures.

(b) The Davidson County Election Commission shall prepare the referendum ballot in strict compliance with this Charter, applicable ordinances, and the charter revision commission's requirements governing the form and content of the ballot. The Davidson County Election Commission shall not alter the wording or substance of the language described in section 19.03(b) as approved by the charter revision commission except as such alteration is approved by the charter revision commission. The Davidson County Election Commission shall file the referendum ballot with the metropolitan clerk at least seven (7) days before such ballot is finalized for review by the charter revision commission.

The ballot shall include the explanatory summary of the proposed amendment approved by the charter revision commission. The ballot shall provide the voters a choice to vote "For Ratification" and "Against Ratification" of each proposed amendment. To assure that the public is fully apprised of the proposed amendment, the Davidson County Election Commission shall post the text of the proposed amendment in a conspicuous place in each polling place and shall publish the proposed amendment on its website and in print in a newspaper of general circulation within Davidson County and digital media. The notice of the referendum and the form of the question and its place on the ballot shall comply with the state laws governing the form of ballots and the arrangement of material on the ballot. The cost of the referendum shall be paid out of the general funds of the Metropolitan Government.

(c) Each proposed amendment shall be ratified when a majority of the votes cast at the referendum election shall be in favor of ratification and shall be rejected when a

majority of said votes is not cast in favor. The Davidson County Election Commission shall canvass the returns and certify the results to the Secretary of State, who shall issue a proclamation showing the results of the referendum on the ratification or rejection of the proposed amendment to this Charter. One copy of the proclamation shall be attached to the copy of this Charter previously certified to the Secretary of State and one copy shall be delivered to the metropolitan clerk who shall attach the same to the copy of the Charter in his or her custody.

Sec. 19.05. – Charter Revision Commission Authorized

(a) There is hereby created and established a metropolitan charter revision commission. The commission shall consist of seven (7) members who shall serve without compensation. The members of the commission shall be appointed by the mayor and confirmed by a majority vote of the whole membership of the council. The seven (7) members shall serve terms of four (4) years each. Members serving when this provision is adopted shall continue to serve through the end of their terms.

(b) The commission shall have the following powers and duties: (1) to make recommendations to the council with respect to amendments to the Charter; (2) to prescribe and oversee the form, facial validity, preparation and circulation of petitions to amend the Charter; and (3) approve the form of referendum ballots to amend the Charter to enable the public to vote either in favor of or against a proposed Charter amendment in an informed way. In exercising these powers and duties, the commission shall have the authority to hold hearings, compel the attendance of witnesses and the production of books, papers, and records pertinent to the hearing, and administer oaths to witnesses. If any person fails or refuses to obey a reasonable order for attendance or reasonable order for production of books and papers, the commission may apply to chancery court for an order requiring the order of the commission to be obeyed. The charter revision commission shall adopt and prescribe standard forms and procedures governing petitions to amend this Charter consistent with this Article, the council's ordinances, and other applicable legal requirements.

Sec. 19.06. – Implementation and Strict Construction

The council shall adopt as necessary any ordinance to implement this Article consistent with this Charter and other applicable legal requirements. This Article, ordinances and procedures implementing this Article, and other applicable legal requirements for referendums to amend the Charter of the metropolitan government shall be strictly construed. Those seeking to initiate amendments by resolution or petition must strictly comply with these requirements.

FOR THE BALLOT

Amendment No. ____

The amendment would modify the process for amending the Charter of the Metropolitan Government of Nashville and Davidson County by a resolution of the Metropolitan Council

or a petition of registered voters. The amendment would define the membership and duties of the Charter Revision Commission, which would include review of all proposed Charter amendments and certification of qualifying amendments submitted by petition. The amendment establishes required elements for proposed Charter amendments and deadlines for placing a Charter amendment on a ballot. The amendment provides that a petition certified by the Charter Revision Commission shall be signed by at least ten percent of registered voters within ninety days after the certification in order to be placed on a ballot.

INTRODUCED BY:

Bob Mendes
Member of Council, At-Large

Angie Henderson
Member of Council

Kyonzte Toombs
Member of Council

AMENDMENT NO. 2

I. Section 8.208 of Article 8, Chapter 2 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:

Sec. 8.208. Qualifications of personnel.

After the effective date of this Charter, no person shall be eligible to appointment to any position in the department except as a regular salaried employee in the classified service. Every appointee shall be a citizen of the United States of America unless otherwise allowed under Tennessee state law; shall meet such physical requirements as shall be prescribed by the civil service commission; and shall comply with all applicable rules and regulations of the civil service commission.

To determine whether applicants for positions in the department possess the required physical qualifications, the chief medical director may provide for conducting physical examinations and report his or her findings to the civil service commission.

FOR THE BALLOT

Amendment No. ___

This amendment would require that police department employees meet physical qualifications set by the civil service commission instead of requirements for admission to the United States Army or Navy.

This amendment would further update U.S. citizenship requirements to reflect Tennessee state law.

INTRODUCED BY:

Zulfat Suara
Member of Council, At-Large

Russ Pulley
Member of Council

Erin Evans
Member of Council

AMENDMENT NO. 3

I. Section 10.101 of Article 10 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the language in the section in its entirety and replacing it with:

> "There shall be a metropolitan board of health which shall oversee administration of the Metro Public Health Department as herein provided."

II. Section 10.102 of Article 10 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the language in the section in its entirety and replacing it with:

> "The board shall be composed of seven (7) members. One (1) member shall be a doctor of medicine or osteopathy certified for practice as such by the state board of medical examiners or board of osteopathic examination, licensed by the state licensing board for the healing arts, and who shall have had not less than five years' experience in the active practice of his or her profession. One (1) member shall be a licensed mental health professional who shall have not less than five years' experience in the active practice of his or her profession. One (1) member shall be a registered nurse. Two (2) members of the board shall be chosen without reference to occupation, except that they shall not come from the medical profession.
>
> Two (2) members shall come from any of the following categories:
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> - A doctor of medicine or osteopathy certified for practice in Tennessee by the Board of Medical Examiners or Board of Osteopathic Examination;
> - A practitioner in an allied health field with a background in the practice of public health;
> - An attorney licensed to practice law by the Tennessee Board of Law Examiners;
> - A veterinarian licensed by the Tennessee Board of Veterinary Medical Examiners;
> - A dentist licensed to practice by the Tennessee Board of Dentistry;
> - A person with a background in environmental health practice or policy;
> - A person with an advanced degree in public health;
> - A person with a background as a community health worker.
>
> The members of the board shall be appointed by the mayor and confirmed by a majority of the whole membership of the council. They shall serve terms of five (5) years each. Any vacancy other than by expiration of term shall be filled for the unexpired term. Members of the board shall serve without compensation. The terms of board members shall be staggered to ensure no more than three seats are vacated in a given year.''

III. Section 10.103 of Article 10 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the language in the introductory phrase and replacing it with the following:

> “The board of health shall hire the director of health, as specified below, and oversee his or her direction of the department of health with respect to all administrative functions of the metropolitan government pertaining to;” and,

IV. Section 10.103 of Article 10 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended in Function No. 7 by deleting the word ``insane'' and replacing it with the words “mentally ill.”

V. Section 10.104, of Article 10 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended in part by deleting in Duty No. 4 the words “chief medical director” and replacing them with the words “director of health or chief medical officer”, and in Duty No. 9 by deleting the words “chief medical director” and replacing them with the words “director of health.”

VI. Section 10.105 of Article 10 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the heading and section in their entirety and replacing them with the following:

> “Section 10.105 – Director of health and chief medical officer – Appointment and qualifications.
>
> The board shall appoint a director of health and may enter into an employment contract with such person for a period not exceeding five (5) years, and at a compensation to be fixed by the board. Such compensation so fixed shall be subject to approval by the council by resolution. The qualifications for the director of health shall be established by the board, subject to approval by the Metro Director of Human Resources.
>
> If the director of health is not a doctor of medicine or osteopathy, the director shall appoint a medical doctor or doctor of osteopathy, who may be a member of the department of health staff, to serve as the chief medical officer, which appointment is subject to board approval. Any powers, duties, responsibilities, or authorities vested in the director of health that require or imply that the director is a licensed physician shall be delegated to the chief medical officer. Any such delegation shall be made in writing and filed with the board of health.”

VII. Sections 10.106, 10.107, and 10.110 of Article 10 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended in part by deleting the words "chief medical director" and replacing them with the words "director of health."

VIII. Section 8.208 of Article 8 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the words “chief medical director” and replacing them with the words “director of health”.

IX. Section 8.306 of Article 8 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the words “chief medical director” and replacing them with the words “director of health”.

FOR THE BALLOT

AMENDMENT NO. _____

This amendment differentiates between the board of health and the department of health, changes the membership of the board of health, refines and clarifies the roles and duties of the board of health, and modifies the qualifications for the director of health.

INTRODUCED BY:

Angie Henderson
Member of Council

Erin Evans
Member of Council

AMENDMENT NO. 4

Chapter 4 of Article 8 of the Charter of the Metropolitan Government of Nashville and Davidson County is amended by deleting it in its entirety and replacing it with the following:

CHAPTER 4. - DEPARTMENT OF TRANSPORTATION AND MULTIMODAL INFRASTRUCTURE

Sec. 8.401. - Created.

There shall be a department of transportation and multimodal infrastructure, which shall consist of the director of transportation and multimodal infrastructure and such other officers and employees organized into such divisions and other units as may be provided by ordinance or by the orders of the director consistent therewith and approved by the mayor.

Sec. 8.402. - Functions.

The department of transportation and multimodal infrastructure shall be responsible for:

(a) The design, construction, maintenance, repair, management and cleaning of roads, highways, streets, alleys, other public places, bridges, viaducts, and other related structures.

(b) Control of the servicing, maintenance and repair of automotive equipment, except as the same by ordinance may be assigned in whole or in part to another department or agency of the metropolitan government.

(c) Construction of transportation capital improvement projects by its own employees, whenever so authorized or directed by ordinance or by the mayor.

(d) Making and preparing such plans, specifications, estimates, surveys, maps, designs, drawings and reports as may be requested from time to time by the council, by the mayor or by the head of any department or any board, commission or agency of the metropolitan government acting with the approval of the mayor, and supervision of the execution and performance of all contracts for capital improvement projects, the plans and specifications, for which were prepared by the department of transportation and multimodal infrastructure.

(e) The administration and enforcement of all laws, ordinances and regulations relating to permits and licenses, for, building and construction within the public rights of way, taxicabs and other passenger vehicles for hire, parking, and public gatherings within the public rights of way; provided, that all licenses and permits issued shall be approved or regulated by such other offices, agencies or boards of the metropolitan government as may be provided from time to time by ordinance; and provided further, that the council may by ordinance transfer and assign this function to a newly created department of licenses and permits.

(f) The design, deployment, operations, and maintenance of traffic control devices on local roads and conventional state routes in Davidson County, except for certain devices within the incorporated cities that are owned by those cities. This includes the maintenance of all regulatory and warning signs on conventional state routes, to the extent not handled by the Tennessee Department of Transportation.

(g) Such other powers and duties as are assigned to the department by this Charter or may be assigned thereto by ordinance or by action of the mayor.

Sec. 8.403. - Supervision, certification, and approval of payment for certain capital improvement projects.

Unless otherwise specifically provided for in this Charter, no payment upon any contract for transportation capital improvement projects or any capital improvement projects within the public rights of way shall be made by the metropolitan government without the written certification of the director of transportation and multimodal infrastructure that the work or the portion thereof for which such payment is to be made has been satisfactorily performed in accordance with the terms of such contract. Unless otherwise specifically provided in this Charter, when the plans and specifications for any transportation capital improvement project or any capital improvement project in the public rights of way have been prepared by some person or agency other than the department of transportation and multimodal infrastructure, the performance of the contract may be supervised and certification required by the department of transportation and multimodal infrastructure before payment shall be made in accordance with the terms and provisions of the contract.

Sec. 8.404. - Director of transportation and multimodal infrastructure—Qualifications and compensation.

The head of the department of transportation and multimodal infrastructure shall be the director. A permanent vacancy in the office of director shall be filled by appointment made by the mayor, subject to the civil service provisions of this Charter. He or she shall have had at least five (5) years' experience in industry or in municipal or metropolitan departments of transportation. In the event of temporary vacancy in the office of director due to sickness, absence or other disability, a temporary appointment may be made by the mayor, subject to the civil service provisions of this Charter.

Sec. 8.405. - Same—Powers and duties.

The director of transportation and multimodal infrastructure shall have general management and control of the several divisions and units of the department. He or she shall appoint and remove, subject to the civil service provisions of article 12 of this Charter, all officers and employees of the department and shall have power to make rules and regulations for the conduct of the business of the department consistent with this Charter and the ordinances of the metropolitan government.

Sec. 8.406. - Custody of maps and plans.

The department of transportation and multimodal infrastructure shall have custody of all maps or plans or any part thereof which were on file immediately prior to the effective date of this Charter in the offices of the director of public works of the City of Nashville or the County Highway Engineer of the County of Davidson and all such maps and plans hereafter made and not expressly required by law or ordinance to be filed in some other place; provided, that all plans, records, etc., pertaining to the sanitary sewerage system which are in the custody of the department of transportation and multimodal infrastructure on the effective date of this Charter shall be turned over to the department of water and sewerage services.

FOR THE BALLOT

Amendment No. _____

This amendment would create the Department of Transportation and Multimodal Infrastructure and define its functions by focusing on transportation and other activities occurring within the public rights of way. The Department of Transportation and Multimodal Infrastructure will replace the Department of Public Works. The Metropolitan Government will continue to provide all the services of the former Department of Public Works.

INTRODUCED BY:

Angie Henderson
Member of Council

Zach Young
Member of Council