



# Metropolitan Nashville and Davidson County, TN

## Legislation Text

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An ordinance amending Chapters 2.44, 2.28; and 2.222 of the Metropolitan Code of Laws pertaining to criminal participation and related actions of employees of the Metropolitan Government.

WHEREAS, officers and emergency service workers who support or affiliate with hate groups and paramilitary gangs undermine the mission of their agency by allying themselves with lawbreakers and by undermining the department's efforts to ensure equitable policing and earn community trust; and

WHEREAS, several hate groups and paramilitary gangs actively seek to enlist current and former police officers and members of the military to benefit from their social credibility and firearms expertise; and

WHEREAS, when police officers join, support, or advocate for hate groups or paramilitary gangs, they raise questions not only about their own fairness, judgment, and commitment to lawful policing, but also impair the credibility and legitimacy of a department that aims to equitably serve all communities within its jurisdiction; and

WHEREAS, Unlawful political violence perpetuated by members of such hate groups and militia is the only type of violence and fundamentalism in our nation's history that has been state sanctioned and benefited from deep institutional penetration; and

WHEREAS, the Brennan Center for Justice has documented that since 2000, law enforcement officials with alleged connections to white supremacist groups or far-right militant activities have been exposed throughout the south including Alabama, Florida, Illinois, Louisiana, Oklahoma, Texas, Virginia, West Virginia, and elsewhere; and

WHEREAS, the FBI's 2015 Counterterrorism Policy Directive and Policy Guide warns that "domestic terrorism investigations focused on militia extremists, white supremacist extremists, and sovereign citizen extremists often have identified active links to law enforcement officers."; and

WHEREAS, members of hate groups and paramilitary gangs will utilize the knowledge and expertise gained through trainings and employment within public safety institutions to plan and effectuate attacks; and

WHEREAS, the presence of hate groups and paramilitary gangs within our public safety institutions endangers the entire community and poses a significant national security risk; and

WHEREAS, water cannons and high pressure firehoses were first used for crowd control in the 1930's in Germany and, by the 1960's, were frequently used during Civil Rights protests in the United States; and

WHEREAS, the use of water cannons and high pressure firehouses against protesters and demonstrators is a practice known as "perp washing"; and

WHEREAS, perp washing has a high risk of causing hypothermia, direct trauma from the pressurized water, secondary injury from being knocked down or colliding with object; and

WHEREAS, perp washing has significant practical and human rights concerns including civil rights intimidation, indiscriminate and disproportionate use, and collective punishment; and

WHEREAS, the incitement of unlawful violence degrades the mission of government to function and serve the entirety of the community; and

WHEREAS, MNP, NFD, and Metro agencies have a commitment to ensuring that appropriate policies and procedures are in place to prohibit biased and unlawful behavior that undermine their vital role in serving the community and this ordinance affirms that commitment and bolsters present policies and practices.

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

Section 1. Chapter 2.44 of the Metropolitan Code of Laws is hereby amended as follows:

2.44.105 - Prohibition against criminal ~~association~~ participation.

A. Purpose. The purpose of this section is to provide for the prohibition of ~~unlawful association~~ knowing participation with in criminal hate groups and paramilitary gangs, ~~because such participation betrays public trust, degrades institutional cohesion, and frustrates the fundamental function and purpose of law enforcement and of service to the whole of Nashville and Davidson County.~~

B. Definitions. For the purposes of this section the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

“MNP” means the Metropolitan Nashville Police Department.

“Hate Group” means any person or group that ~~advocates, incites, or provides material supports for~~ criminal acts or criminal conspiracies ~~or that promote violence, hatred, or discrimination~~ toward racial, religious, ethnic, sexual, gender, or other groups or classes of individuals.

“Paramilitary Gang” means person or group that advocates the overthrow of the U.S. Government or any state, municipality, tribal, or other government by force or violence or any unlawful means including as defined under Tennessee Code Annotated § 39-17-314.

C. Prohibitions. No person employed by MNP shall ~~voluntarily associate with or be members of any~~ knowingly participate in activities of a Hate Group or Paramilitary Gang as defined by this section. This provision shall not be construed as prohibiting the officers from engaging in political activity pursuant to Tenn. Code Ann. § 38-8-310.

D. Policies and Procedures. MNPd shall adopt policies to enforce this section to include, but not limited to, policies and procedures for investigating allegations of prohibited association participation, mandatory reporting of employees known to be partaking in prohibited association participation, prohibit the display of patches, tattoos, symbols, and insignia of hate groups or paramilitary gangs, whether the officer is on or off duty, and explicitly prohibit posts, "likes," jokes, memes, retweets, and other statements that advocate racism, violence, misogyny, homophobia, or other kinds of hate or discrimination.

Section 2. Chapter 2.28 of the Metropolitan Code of Laws is hereby amended as follows:

2.28.025- Prohibition against criminal participation and prohibited practices

A. Purpose. The purpose of this section is to provide for the prohibition of knowing participation in criminal hate groups and paramilitary gangs, because such participation betrays public trust, degrades institutional cohesion, and frustrates the fundamental function and purpose of service to the whole of Nashville and Davidson County.

B. Definitions. For the purposes of this section the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

"NFD" means the Nashville Fire Department including the Division of Emergency Ambulance and Rescue Service.

"Hate Group" means any person or group that incites or provides material supports for criminal acts or criminal conspiracies that promote violence toward racial, religious, ethnic, sexual, gender, or other groups or classes of individuals.

"Paramilitary Gang" means person or group that advocates the overthrow of the U.S. Government or any state, municipality, tribal, or other government by force or violence or any unlawful means including as defined under Tennessee Code Annotated § 39-17-314.

"Perp Washing" means the use of high-pressured water cannons of fire houses as an anti-personnel and crowd control tactic.

C. Prohibitions. No person employed by NFD shall knowingly participate in activities of a Hate Group or Paramilitary Gang. This provision shall not be construed as prohibiting the officers from engaging in political activity pursuant to Tenn. Code Ann. § 38-8-310.

D. Policies and Procedures. NFD shall adopt policies to enforce this section to include, but not limited to, policies and procedures for investigating allegations of prohibited participation, mandatory reporting of employees known to be partaking in prohibited participation.

E. Prohibited Practices. No NFD personnel may engage in the practice of Perp Washing.

Section 3. Chapter 2.222 of the Metropolitan Code of Laws is hereby amended by adding the following

section:

2.222.020 - Standards of conduct.

(t) No person employed by the Metropolitan Government shall incite violence or threaten to commit crimes of violence or participate in a group that incites violence or threatens to commit crimes of violence.

Section 5. If any section or provision of this ordinance is found to be invalid, unconstitutional, or unenforceable, that finding shall not affect or undermine the validity of any other section, subsection, or provision of this ordinance.

Section 2 6. This ordinance shall take effect from and after its enactment, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance, as substituted on first reading, amends Chapters 2.44, 2.28, and 2.222 of the Metropolitan Code of Laws to prohibit criminal participation and related actions of employees of the Metropolitan Government.

Chapter 2.44 of the Metropolitan Code of Laws provides regulations related to the Metropolitan Nashville Police Department (“MNPDP”). The ordinance under consideration would add a new provision, Section 2.44.105, to prohibit MNPDP employees from knowingly participating in the activities of a Hate Group or Paramilitary Gang. “Hate Group” is defined as “any person or group that incites or provides material support for criminal acts or criminal conspiracies that promote violence toward racial, religious, ethnic, sexual, gender, or other groups or classes of individuals.” “Paramilitary Gang” is defined as a “person or group that advocates the overthrow of the U.S. Government or any state, municipality, tribal, or other government by force or violence or any unlawful means including as defined under Tennessee Code Annotated § 39-17-314.” Tennessee Code Annotated § 39-17-314 makes it a Class D felony for a person to assemble with one or more other persons to train or practice in a technique or means capable of causing property damage, bodily injury, or death with the intent to commit a civil disorder.

Chapter 2.28 of the Metropolitan Code of Laws provides regulations related to the Nashville Fire Department (“NFD”). The ordinance under consideration would prohibit NFD employees from knowingly participating in the activities of a Hate Group or Paramilitary Gang, using the definitions listed above. In addition, the ordinance would prohibit NFD personnel from engaging in the practice of Perp Washing, which is defined as “the use of high-pressured water cannons of fire houses as an anti-personnel and crowd control tactic.”

Chapter 2.222 of the Metropolitan Code of Laws provides the standards of conducts for all officials, whether elected or appointed, officers, and employees of the Metropolitan Government. The ordinance under consideration would add a provision to the standards of conduct prohibiting employees from inciting violence or threatening to commit crimes of violence, or from participating in a group that incites violence or threatens to commit crimes of violence.