



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2025-771, **Version:** 1

An Ordinance amending Title 15 of the Metropolitan Code of Laws to amend the membership and credential requirements of the Stormwater Management Commission.

WHEREAS, prior to January 2023, the Metro Stormwater Management Committee was comprised of seven members, three of whom were lay members from the community at large, and four of whom were registered professional engineers; and,

WHEREAS, in January 2023, ordinance no. BL2022-1528 revised the membership requirements for the Stormwater Management Committee. The ordinance retained requirements that four members be registered professional engineers. However, the ordinance replaced the three lay members with members of various professions submitted for nomination through (1) the Tennessee Chapter of the American Society of Landscape Architects and Tennessee Forestry Association, (2) the Greater Nashville Association of Realtors, and (3) the Nashville Bar Association. (After enactment of BL2022-1528, the name of the “Stormwater Management Committee” was changed by ordinance BL2023-1888 to “Stormwater Management Commission” approved July 21, 2023); and,

WHEREAS, the elimination of membership eligibility for lay citizens on the Stormwater Management Commission created a commission comprised entirely of registered professionals -- inadvertently eliminating perspectives reflective of the general citizenry of Davidson County; and,

WHEREAS, as currently composed, the Stormwater Management Commission differs in its composition from membership requirements for similar entities in peer cities in Tennessee. Other municipalities incorporate perspectives from a broader assimilation of individuals, including neighborhood associations, public interest groups, universities, environmental engineers, scientists, and educators; and,

WHEREAS, for example, the City of Chattanooga, Tennessee maintains a Storm Water Regulations Board whose members include an environmental engineer or environmental scientist or educator, two representatives of neighborhood groups, as well as a representative of an environmental interest or environmental organization. (*Chattanooga Code*, § 31-361(a)). Likewise, the City of Memphis, Tennessee Stormwater Board includes members from a public interest group or university, as well as a private citizen. (See, *Memphis Code of Laws, Sec. 13-40-35, Referendum Ordinance No. 5446*.) Even smaller municipalities, such as the City of LaVergne, Tennessee include members from an environmental association upon their Stormwater Appeals and Advisory Board. (*LaVergne, TN Code of Ordinances, Sec. 14-801*). The perspectives provided by these individuals are wholly absent from the Metro Stormwater Management Commission.

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

Section 1. That Section 15.64.040 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.040 - Stormwater Management Commission - Created.

A. There is created a metropolitan stormwater management commission which shall consist of seven members who must be residents of Metropolitan Nashville and Davidson County.

B. The membership of the commission shall be as follows:

1. Four members who shall be registered professional engineers in the State of Tennessee with expertise in civil engineering, hydraulics, hydrology, and/or environmental sciences. At least one such member shall be a civil or environmental engineer, preferably from the non-profit or academic sector.

2. Three members as follows: One licensed landscape architect or urban forester elected from nominations submitted by the Tennessee Chapter of the American Society of Landscape Architects and Tennessee Forestry Association; one licensed attorney who specializes in water or environmental law elected from nominations submitted by the Nashville Bar Association; and one member serving as representative of a local environmental organization, elected from nominations submitted by the Metropolitan Department of Water and Sewerage Services.

C. The four members who are registered professional engineers shall be appointed by the mayor and confirmed by a majority vote of the whole metropolitan council. The three members nominated by the organizations listed in subsection B.2 above shall be elected by a majority vote of the whole membership of the metropolitan council.

D. All members shall have been residents of the metropolitan government area for not less than one year and shall continue to be so eligible as long as they shall serve.

E. Appointed members of the commission shall serve a term of four years. The terms of office of the first appointed members shall be staggered, two for a term of two years, two for a term of three years, and two for a term of four years.

Section 2. That Section 15.64.050 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.050 Stormwater Management Commission - Organization.

Within ten days after its appointment, the stormwater management commission shall organize itself by election of one of its members as chairman and another as vice-chairman, who shall serve for a period of one year or until their successor shall have been chosen. The director of the department of water and sewerage services shall appoint the secretary to the commission who shall be the custodian of the minutes and records of the proceeding of the commission. The director of law shall appoint a legal advisor to the commission.

Section 3. That Section 15.64.060 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.060 Stormwater Management Commission - Compensation.

All appointed members of the commission shall serve without compensation and may be removed from membership on the commission by the mayor for continued absence from meetings of the commission, physical disability, or other just cause.

Section 4. That Section 15.64.070 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.070 - Stormwater Management Commission - Replacement of Members.

Replacement of any appointed member of the commission resigning or dismissed from the commission shall be appointed in the same manner as prescribed for regular appointees. Any member appointed as a replacement shall serve only for the remainder of the term of the replaced member, unless

subsequently reappointed for an additional term.

Section 5. That Section 15.64.080 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.080 Stormwater Management Commission - Regulations - Meetings - Duties.

The stormwater management commission shall adopt such rules and regulations as it may deem necessary to conduct its business. The commission, in open meeting, shall hear all appeals, variance requests, and other relevant issues under the provisions of this chapter. The commission shall meet at regular monthly intervals with the day and time to be determined by the chairman. In the event no appeals have been filed and there is no business pending, the chairman may cancel the meeting ten days before its scheduled date.

Section 6. That Section 15.64.090 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.090 Stormwater Management Commission - Voting Regulations.

Four members of the stormwater management commission shall constitute a quorum. A majority vote of members present shall be required for actions by the commission. In the event that a quorum is not present, an application shall be readvertised for the next regular meeting. No member of the commission shall act in any case in which he has a personal interest.

Section 7. That Section 15.64.100 of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.100 Appeal and Variance Request Procedure.

- A. 1. Whenever the director of the department of water and sewerage services shall uphold enforcement taken by the department for violations of this chapter or the regulations established in the Metropolitan Government of Nashville and Davidson County Stormwater Management Manual, Volume 1 - Regulations, the owner or authorized agent may appeal the decision of the director to the stormwater management commission. All appeals must be filed within thirty days after an adverse decision by the director of the department of water and sewerage. A filing fee in the amount established pursuant to Section 15.64.215 shall be charged to each applicant payable to metro water services.
2. Whenever the director of the department of water and sewerage services shall reject or refuse to approve a plan for noncompliance with this chapter or the regulations established in the Metropolitan Government of Nashville and Davidson County Stormwater Management Manual, Volume 1 - Regulations, the owner or authorized agent may appeal the decision of the director to the stormwater management commission. All appeals must be filed within thirty days after an adverse decision by the director of the department of water and sewerage services. A filing fee in the amount established pursuant to Section 15.64.215 shall be charged to each applicant payable to metro water services.
3. An applicant may request a variance from the regulations established in the Metropolitan Government of Nashville and Davidson County Stormwater Management Manual, Volume 1 - Regulations, by submitting a completed application to appear before the commission. A filing fee in the amount established pursuant to Section 15.64.215 shall be charged to each applicant payable to metro water services.

- B. Any action taken by the commission shall be by motion which shall state the reasons therefore

with particularity. All the decisions of the commission shall be by resolution, must be in writing, and must indicate the vote of each member of the commission upon the decision, and shall specify in what manner such variation or modifications shall be made, the conditions upon which they are to be made, and the reasons therefore.

- C. Unless otherwise stated, every decision of the commission shall be final; subject however, to such remedy as any aggrieved party or the metropolitan government may have at law or in equity. Every decision shall be promptly entered into the minutes of the meeting of the commission by the secretary and filed with metro water services. The records of the commission shall be open to public inspection, and a copy of each decision shall be sent by mail or otherwise to each appellant.
- D. The commission shall, in every case, render a decision without unreasonable or unnecessary delay.

Section 8. That subsection 15.64.105(A) of the Metropolitan Code of Laws is hereby amended by deleting the section in its entirety and replacing it with the following:

15.64.105 Public Notice Requirements.

- A. No action shall be taken by the stormwater management commission on any variance requests unless, at least ten days prior to consideration of the variance by the commission, the applicant for the variance provides written notice by U.S. Mail of the date, time, and place of the commission meeting to all property owners within one thousand feet of the subject property. The applicant shall be responsible for the costs associated with the preparation and mailing of such written notices.

Section 9. That upon passage of this Ordinance, all current members of the Stormwater Management Commission shall remain in office pursuant to their pre-existing appointment durations. As commission vacancies occur through term expirations, resignation, or other departures, the membership requirements of Section 15.64.040(B) shall apply to effectuate the provisions of this Ordinance.

Section 10. Matters pending before the stormwater management commission as of the effective date of this ordinance shall not be affected by any provision contained herein.

Section 11. This ordinance shall take effect from and after its passage, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

As amended, this ordinance amends Chapter 15.64 of the Metropolitan Code of Laws regarding the membership and credential requirements of the Stormwater Management Commission.

This ordinance makes various housekeeping edits to Chapter 15.64 regarding the Stormwater Management Commission. In 2023, pursuant to Ordinance No. BL2023-1888, the entity was renamed from the Stormwater Management Committee to the Stormwater Management Commission. The ordinance under consideration updates instances of “committee” that remain in this Chapter.

In addition, this ordinance amends the membership of the Commission. The ordinance adds a requirement that at least one member of the Commission must be a civil or environmental engineer, preferably from the non-profit or academic sector. In addition, the ordinance adds a requirement that one member be a representative of a local environmental organization, elected from nominations submitted by the Metropolitan

Department of Water and Sewerage Services. As amended, this ordinance would also require that one member be a licensed or retired attorney submitted by the Mayor's Office whose practice focuses on or has had significant experience in water, stormwater, or environmental law. The membership of the commission would remain at seven.

The ordinance further provides that all current member of the Commission will remain in office pursuant to their predetermined durations. When future vacancies occur, new members will be selected from the categories added above. In addition, matters pending before the Commission as of the effective date of the ordinance would not be affected by any provision contained in the ordinance.