

## **Frequently Asked Questions**

**(Prepared by Shelby County Attorney's Office)**

1. What is a charter form of county government?

*Answer:* A charter form of county government provides the citizens of the chartering county with the power to effectively operate its government without seeking changes through the state legislature in Nashville. The charter document is akin to a county constitution, segregating the county's legislative, executive and judicial functions. The Shelby County Charter was approved by the voters of Shelby County on August 2, 1984 and became effective September 1, 1986.

2. Why does the Shelby County Charter need to be amended?

*Answer:* The Shelby County Attorney's Office issued Opinion No. 07-009 to the County Mayor on January 26, 2007 recommending that the Shelby County Charter be amended because the offices of the Sheriff, Trustee, Register, County Clerk, and Assessor are not specifically created in the Charter and the duties and functions of those officers are not assigned under the Charter. This opinion was issued following the Tennessee Supreme Court's holding that the Knox County Charter was incomplete because it failed to specifically provide for the offices, and/or otherwise assign the duties and functions, of the Sheriff, Trustee, Register, County Clerk, and Assessor. This opinion was also issued in light of the fact that the Knox County Charter, adopted in 1988, is patterned after the Shelby County Charter.

3. How were the charter amendments proposed?

*Answer:* The charter amendments were proposed by two-thirds vote of the Shelby County Board of Commissioners. Ordinance No. 360 and No. 361 were adopted by the County Commission on June 2, 2008 and approved by the Shelby County Mayor, A C Wharton, Jr. on June 4, 2008.

4. When will the public vote on the amendments?

*Answer:* The registered voters of Shelby County will vote on the amendments during the next Countywide general election to be held on August 7, 2008. Early voting is July 18 through August 2, 2008.

5. How can the public get a copy of the Handbook for Proposed Amendments to Shelby County Charter?

*Answer:* The public can download a copy of the Handbook by clicking on Charter Amendments Handbook under "Featured Links" on the website for Shelby County Government at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov); by picking a copy up at 160 N. Main Street, Suite 450; by calling (901) 545-4301 and requesting a copy by mail; or by mailing a written request to the Shelby County Board of Commissioners, 160 N. Main Street, Suite 450, Memphis, TN 38103.

6. If Ordinance No. 360 fails, will the County Mayor and County Commissioners still have term limits?

*Answer:* Yes. If Ordinance No. 360 fails, the terms limits under the current Charter will not be changed. The individuals elected to the offices of County Mayor and County Commissioner will still be limited to two consecutive four-year terms.

7. If Ordinance No. 360 passes, will the current term limits be extended for the current County Mayor and County Commissioners? If not extended, how will the new term limits apply to those same offices.

*Answer:* No. If Ordinance No. 360 passes, the term limits for the individuals who were elected to the offices of County Mayor and County Commissioner in 2006 will not be extended. Those individuals will continue to be limited to two consecutive four-year terms at any time they hold the same office.

For example, if a County Commissioner was elected to a second term in 2006, that individual could not be elected to the same office in 2010. Under the current Charter, and even if the Charter is amended by Ordinance No. 360, that same individual could sit out a term and then run for and be elected to the office of County Commissioner in 2014, because the terms would not be "consecutive." That individual, however, would still be limited to two consecutive four-year terms. Any individual other than those elected to the office of County Mayor or County Commissioner in 2006, who is elected to such office in 2010 or after, will be eligible to serve three consecutive four-year terms if the proposed amendment is approved.

8. If Ordinance No. 360 fails, will the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor have term limits?

*Answer:* No. If Ordinance No. 360 fails, the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor will not have term limits because those offices will not have been created as part of the

Charter. Those offices will not have been created as a result of the failure of the voters to approve the Charter amendments proposed in Ordinance No. 360. Those officers will continue to operate under the Tennessee Constitution and state law, neither of which imposes term limits on such offices as a qualification for holding office.

9. If Ordinance No. 360 passes, will term limits apply to the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor?

*Answer:* Yes. If Ordinance No. 360 passes, the individuals elected to the offices of Shelby County Sheriff, Trustee, Register, and County Clerk will be limited to three consecutive four-year terms effective September 1, 2010. The individual elected to the office of Shelby County Assessor will also be limited to three consecutive four-year terms effective September 1, 2014.

10. Why is the effective date for the term limits of the office of Shelby County Assessor different than the effective date for the other officers?

*Answer:* The Shelby County Assessor is not currently elected in the same year as the other officers. The effective date for the term limits is different because the Charter amendments proposed in Ordinance No. 360 become effective September 1, 2010 and the Assessor is not elected again until 2012. The individual who is elected to the office of Assessor in 2012 will serve a two-year term. Then, in 2014, the individual elected to the office of Assessor will serve a four-year term and each four years thereafter on the same election cycle as the other officers, but will be limited to three consecutive four-year terms.

11. Why does Ordinance No. 360 propose to change the "constitutional" officers to "charter" officers?

*Answer:* Ordinance No. 360 proposes to create county "charter" officers to perform the duties and functions of the offices of sheriff, trustee, register, county clerk, and assessor which were formerly known as the "constitutional" officers. A county that adopts a charter form of government, like Shelby County, is not required to have those same constitutional offices, but must continue to perform the duties and functions of those offices. Although the charter county can create other offices and give different names or titles to the offices that perform such duties and functions, the amendment keeps the same number of offices and the same titles.

12. Under Ordinance No. 360 and/or Ordinance No. 361, will the "charter" officers be subject to recall from office by the voters?

*Answer:* If both Ordinance No. 360 and Ordinance No. 361 pass, the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor, as well as the County Mayor and County Commissioners, will be subject to recall from office by the voters. If Ordinance No. 360 fails and Ordinance No. 361 passes, only the County Mayor and Commissioners will be subject to recall. Petitions for recall must be signed by at least 15% of the registered voters eligible to vote for the official that is subject to recall. If an official is recalled, the Shelby County Board of Commissioners will appoint an interim officer to serve until the next regularly scheduled Countywide general election.

13. How can the public get a copy of the Shelby County Charter?

*Answer:* The public can download a copy of the Shelby County Charter by clicking on Charter and Code of Ordinances under "Featured Links" on the website for Shelby County Government at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov); by referring to Appendix "A" to the Handbook for Proposed Amendments to Shelby County Charter; by picking a copy up at 160 N. Main Street, Suite 450; by calling (901) 545-4301 and requesting a copy by mail; or by mailing a written request to the Shelby County Board of Commissioners, 160 N. Main Street, Suite 450, Memphis, TN 38103.

14. Does Ordinance No. 360 create qualifications for the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor?

*Answer:* Except for the Shelby County Sheriff, the qualifications for the Trustee, Register, County Clerk, and Assessor will be the same as those set by state law for the former constitutional officers. In addition to those state law qualifications, the Sheriff must have three or more years experience as a chief executive officer of a jail or prison or be a Certified Corrections Executive.

15. Under Ordinance No. 360, what happens if the Shelby County Sheriff does not meet the additional qualifications mentioned above?

*Answer:* If the Shelby County Sheriff fails to have the required experience or to obtain the required certification within one year of taking office, the compensation of the Sheriff may be reduced in the same manner and by the same amount as allowed by

state law for the reduction in salary of the former constitutional Sheriff for failure to possess a current and valid peace officer certification.

16. If Ordinance No. 360 passes, will the duties of the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor change?

*Answer:* No. If Ordinance No. 360 passes, the duties of the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor will remain the same unless the Charter is amended in the future.

17. What are the duties of the officers that will be affected by the proposed amendment?

*Answer:* A summary of the duties of the Sheriff, Trustee, Register, County Clerk, and Assessor can be obtained by downloading it from the internet at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov); by referring to the Handbook for Proposed Amendments to Shelby County Charter; by picking a copy up at 160 N. Main Street, Suite 450; by calling (901) 545-4301 and requesting a copy by mail; or by mailing a written request to the Shelby County Board of Commissioners, 160 N. Main Street, Suite 450, Memphis, TN 38103.

18. If Ordinance No. 360 passes, will the compensation of the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor continue to be set by state law?

*Answer:* Except for the Shelby County Sheriff, the compensation of these officers will continue to be set by state law. The compensation of the Sheriff will be set by the Shelby County Board of Commissioners and will be equal to no less than 80% and no more than 95% of the amount set for the compensation of the County Mayor.

19. Under Ordinance No. 360, will the Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor still have the authority to file a petition with the court to challenge the personnel budget approved by the Shelby County Board of Commissioners?

*Answer:* No. The Shelby County Sheriff, Trustee, Register, County Clerk, and Assessor will not have the authority to file a petition with the court to challenge the personnel budget. The Sheriff, however, will be authorized to petition the County Mayor and Chairman of the County Commission for the sole purpose of seeking an increase in funding for the number of personnel positions and/or the salary

amount for personnel. The petition will be resolved by binding arbitration conducted by a retired judge or independent arbitrator.

20. Where can the public get a copy of the organizational chart for Shelby County Government?

*Answer:* The public can get a copy of Shelby County Government's organizational chart by downloading it from the internet at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov); by referring to the Handbook for Proposed Amendments to Shelby County Charter; by picking a copy up at 160 N. Main Street, Suite 450; by calling (901) 545-4301 and requesting a copy by mail; or by mailing a written request to the Shelby County Board of Commissioners, 160 N. Main Street, Suite 450, Memphis, TN 38103.

21. Under Ordinance No. 361, can officials be elected to more than one office for which they receive compensation?

*Answer:* No. If Ordinance No. 361 passes, no county official elected pursuant to the Shelby County Charter can hold another county, state, or federal compensated elective office, except offices of a temporary nature. If the amendment passes, it will apply to the County Mayor and members of the Shelby County Board of Commissioners as well as all other elected county officials. If the amendment fails, there is a similar provision in the Shelby County Charter that applies to the County Commission only. If Ordinance No. 360 passes, creating the charter officers, the amendment will also apply to the Shelby County Sheriff, Trustee, County Clerk, and Assessor.

22. How is a vacancy in the office of County Mayor filled under the Shelby County Charter and how would this change under Ordinance No. 361?

*Answer:* Under the current Shelby County Charter, if a vacancy occurs in the office of County Mayor, the Chief Administrative Officer, a nonelected official, fills the vacancy until a special election is held. If Ordinance No. 361 passes, the mayoral vacancy will be filled by the Chairman of the Shelby County Board of Commissioners, or the Chairman Pro Tempore if the Chairman is unavailable or unwilling to serve. Within 45 days after the Chairman or Chairman Pro Tempore begins serving, the County Commission must select an interim mayor

who will serve until the next regularly scheduled Countywide general election.

23. Currently, there is no procedure for temporarily filling vacancies in the office of County Mayor or County Commissioner in the event of a disaster. How is this addressed by Ordinance No. 361?

*Answer:* If Ordinance No. 361 passes, there will be a procedure in place for ensuring the continuity of government following a disaster. If the County Mayor is unavailable following a disaster, the office will temporarily be filled by the Chairman of the Shelby County Board of Commissioners. If the Chairman is unavailable, the Chairman Pro Tempore will serve. If both are unavailable, other Commissioners will serve. If all Commissioners are unavailable, the Chief Administrative Officer, a nonelected official, will serve.

If a majority of the members of the Shelby County Board of Commissioners are unavailable following a disaster, remaining Commissioners may conduct business for 21 days. Thereafter, the remaining Commissioners will select interim commissioners to serve until County Commissioners become available or vacancies are declared and then filled at the next regularly scheduled Countywide general election. If no County Commissioners are available, the County Mayor or acting county mayor will appoint one interim commissioner from each county commission district.

24. Under Ordinance No. 361, will employees and officials of Shelby County Government still be required to live in Shelby County?

*Answer:* Employees and officials of Shelby County Government will still be required to live in Shelby County unless they were living outside the county at the time the Shelby County Charter originally became effective (09-01-86). If Ordinance No. 361 passes, the Shelby County Board of Commissioners will be authorized to create exemptions to the residency requirement by ordinance for any class of employees, but only for a legitimate governmental interest.

25. Employees of Shelby County Government are protected by the Civil Service Act. A copy of the Civil Service Act is attached to the Shelby County Charter as Exhibit "A." Why does Ordinance No. 361 seek to delete the exhibit?

*Answer:* The Civil Service Act is a private act that is only applicable to Shelby County. The Shelby County Charter states that private acts

that are not inconsistent with the Charter, are ordinances of Shelby County. Because a copy of the Civil Service Act is properly printed in the Shelby County Code of Ordinances at Sections 12-26 to 12-66, Exhibit "A" is a duplication of the ordinance and improperly included in the Charter.

26. If Ordinance No. 360 passes, when will it become effective?

*Answer:* If Ordinance No. 360 passes, the amendments that are applicable to the Shelby County Sheriff, Trustee, Register, and County Clerk become effective September 1, 2010. The amendments applicable to the Assessor become effective September 1, 2012.

27. If Ordinance No. 361 passes, when will the proposed amendments become effective?

*Answer:* If Ordinance No. 361 passes, the amendments become effective September 1, 2008.