

## **Petition for Submission of Proposed Amendment to Charter**

To be signed by ten percent of the electors, based upon the total vote cast at the last preceding general municipal election.

(NOTE – The below notice must be printed in red.)

NOTICE – Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter is liable to prosecution.

**To the Council, the legislative authority of the City of Shaker Heights of Cuyahoga County, Ohio.**

We, the undersigned, qualified electors of the City of Shaker Heights of Cuyahoga County, Ohio respectfully petition the legislative authority to forthwith provide by Ordinance, for the submission to the electors of said the city, the following proposed amendment to the Charter of said city to-wit:

### ***TITLE:***

### **ARTICLE VIII: CHARTER AMENDMENT TO CREATE A SAFER SHAKER HEIGHTS AND MODERNIZE PUBLIC SAFETY**

#### ***Introduction:***

This Amendment modernizes public safety procedures, increases government transparency, and expands efforts to achieve racial equality in the City of Shaker Heights. Article VIII of the City Charter is adopted as follows:

#### ***I. Definitions***

- A. Civilian Police Oversight Board (or the Board): A citizens' board that provides oversight for the NCAT and Police Department officers and personnel.
- B. DEI Office: The Office of Diversity, Equity, and Inclusion
- C. Nonviolent Community Administrators Team (or NCAT): Response and patrol team trained in mental health crisis intervention
- D. Police Department: Shaker Heights Police Department
- E. Public Records Repository (or Repository): Police Department records that are made public and available online to the general public
- F. Police Information Unit: Public records department of the Shaker Heights Police Department
- G. Chief DEI Officer: Head official of the Office of Diversity, Equity, and Inclusion.
- H. NCAT Administrators: Social Workers or psychologists trained in de-escalation who are employed by the City of Shaker Heights and are members of the NCAT team
- I. Finalized investigation: An investigation of allegations of misconduct against a sworn member of the Police Department which has either reached a final disciplinary decision; or been closed by the investigating agency without findings and recommendations

#### ***II. Nonviolent Community Administrators Team, NCAT***

- A. Pursuant to the schedule detailed herein, Nonviolent Community Administrators Team (hereinafter "NCAT") hereby replace Police Officers in the execution of police duties including response and patrol that do not involve violence or serious crime including but not limited to:
  - 1. Traffic control;
  - 2. All City patrol;
  - 3. Distribution of citations;
  - 4. Any execution of a former police duty at a vehicle where the suspect is not engaging in reckless or violent activity;
  - 5. Execution of a former police duty in non-motorized vehicle traffic violation that is deemed not a risk to citizens;
  - 6. All responses involving unarmed minors;
  - 7. All responses involving unarmed people with mental or cognitive disabilities;
  - 8. Theft in cases where the suspect is unarmed and deemed not an active threat to

- public safety;
9. Unarmed assault, harassment, or hazing; and
10. All mental health related calls.
- B. NCAT's replacement of police officers in the instances above does not inhibit the Police Department's ability to station officers for quicker response to violent calls for dispatch. NCAT may request police officer backup or police officer co-response at NCAT's discretion. Officers may provide backup if NCAT health and safety is at imminent risk. All Officer backup will be reviewed by the Board.
- C. The mission of NCAT shall include contributing to dismantling systemic racism through racially-aware safety and social services to persons of all races with a conscious anti-racism focus.
- D. This Amendment creates and executes the following for NCAT;
1. There will be two person teams (further known as "NCAT Patrol Teams") of unarmed responders comprised of NCAT Administrators.
  2. NCAT Administrators will be licensed mental health clinicians, social workers, and medics, with de-escalation training. NCAT Patrol Teams shall support all areas of Shaker Heights and shall be distributed to patrol areas based on that area's population. The City shall decide the number of NCAT Administrators hired, however it shall be no less than 35 Administrators.
  3. Public access to NCAT by calling or texting a designated NCAT phone number directly or by calling 911.
  4. Dispatch by operators who are trained in a program created by a coalition of NCAT Administrators, the Chief of Police, DEI officers, and Oversight Board. These Dispatch Operators will be trained to determine which calls are most appropriately responded to by NCAT, armed Police Officers, or both. NCAT Administrators, DEI officers, civilians, or Oversight Board members may submit a request to the Civilian Oversight Board as described below to review the decision to dispatch police or NCAT Administrators.
  5. The City Council shall appoint a full time head of NCAT to supervise and administer NCAT
  6. NCAT shall be fully funded by the City, have proper resources, and staffing within a year from the passage of this Amendment.
  7. NCAT shall be fully operational within a year of the passage of this Amendment.
- E. NCAT may follow-up with people directly involved in non-violent infractions and shall follow-up with individuals involved in traumatic experiences to refer victims, suspects, Police Officers, NCAT Administrators, or incarcerated individuals to counseling.
- F. NCAT shall be available 24 hours a day, 7 days a week.
- G. NCAT shall be composed of Administrators with varying racial backgrounds. Hiring preference shall be given to qualified bilingual NCAT candidates. NCAT Administrators will be hired by the Oversight Board based on the recommendations of the DEI Office.
- H. Any organization hired to train NCAT Administrators shall not have a personal or professional relationship with any police department. The coalition of the DEI Office and Oversight Board shall publish a public report describing their decision regarding the hiring of said organization, how the organization limits their own racial bias, and specific actions taken by the organization to advance the goal of anti-racism.
- I. Upon being hired, all NCAT Administrators shall participate in at least twelve (12) hours of community engagement, talking with residents and local community groups. At least two hours shall be door-to-door and at least ten hours shall be in person with community members.
- J. The mission of NCAT shall include dismantling systemic racism through safety and social services to persons of all races with a conscious anti-racism focus.
- K. All NCAT Administrators shall be employees of the City, with benefits and salaries adequate to attract and retain highly skilled staff, and shall be provided appropriate support by City Council.
- L. NCAT shall operate independently from the Police Department and shall be headquartered in a facility separate from the Police Department.
- M. NCAT and the Police Department shall develop a cooperative relationship such that Police Officers will routinely refer appropriate situations to NCAT and NCAT may call on the police for back-up if a situation involves violent behavior by a person.

- N. NCAT Administrators shall report community issues (such as potholes, lack of trees, broken streetlights, etc.) to the proper City departments. NCAT Administrators may take reports directly from community members.
- O. Police Officers shall primarily execute investigation and violent response call duties. The Police Department and NCAT Departments shall use the decrease in the crime rate as a metric of success and not the number of arrests by sworn officers/Administrators and the Police Department. Quarterly reports of crime rates published on the City website shall be required under this Amendment.
- P. The DEI Office, in conjunction with City Council and the Board, shall work with the Metro Health Crisis Intervention Team, or its successor, to create a plan to incorporate such Intervention Team with NCAT for the duration of any contracts between the City and Metro Health, or its successor. In addition to their own training requirements, The Metro Health Crisis Intervention Team, or its successor, must also adhere to NCAT training requirements.

### ***III. Creation of The Civilian Police Oversight Board***

- A. The Civilian Police Oversight Board (further referred to as the "Oversight Board" shall oversee the Police Department, NCAT department, and any other employee of these departments in the City of Shaker Heights.
- B. The Civilian Police Oversight Board in partnership with the Police Department and the DEI Office shall test new models of policing and public safety in effort to reduce any crime or brutality annually and report to the City Council on recommendations for reforms to be implemented. However, no recommended reforms shall impede the creation of NCAT and the implementation of its duties.
- C. The Civilian Police Oversight Board shall consist of nine members. The Chief DEI Officer will appoint five members and the City Council will appoint four members. The Chief DEI Officer and City Council must fill vacancies within sixty days from when such vacancy arises.
- D. No more than one Board member may be a resident of the same neighborhood. Neighborhoods, as defined by the City, that are comprised of at least forty percent (40%) people of color shall each be assigned one of the nine Oversight Boards seats. At least one seat shall be assigned to a member that will represent the Asian and Hispanic community of the City. At least two members should be attorneys with experience representing victims of police misconduct or criminally prosecuting police misconduct. At least one Board member should, where reasonably feasible, be between the ages of sixteen (16) and thirty (30) at the time of appointment. No Board member may be a current or former employee of any given division of police, police union, or police-affiliated organization. No Board member may be an elected official or former elected official of the City, County, or State.
- E. Vacancies during a term will be filled in the same manner as original appointments for the unexpired term. Within seven (7) days of any Board vacancy, including vacancies caused by the end of a term, the Mayor, or his or her designee, must post a public notice of vacancy and a request for applications on the City website and social media. Members must be chosen from among the applicants.
- F. Board terms of office will be four years and will be staggered. At the initial appointments, three Board members appointed by the Chief DEI Officer and two Board members appointed by City Council will serve for two-year terms. No member may serve for more than a total of two full terms. The initial Board members who serve a two-year term can serve an additional two full terms. Time spent fulfilling an unexpired term of two years or less will not be considered part of the two consecutive full terms. The Chief DEI Officer may remove any Board member, upon notice, hearing, and approval of the Board, for cause including but not limited to malfeasance, misfeasance, nonfeasance, or gross neglect of duty.
- G. All Board members must participate in annual training on topics relevant to Board duties. Members of the Board will receive compensation as City Council shall establish. The Finance Committee will oversee the budget on behalf of, and with guidance from, the Board.
- H. The Board will annually elect one of its members to serve as Chair and one to serve as Vice-Chair. Any given member may not spend more than four years collectively in either leadership position.
- I. The Board may hire additional staff, fellows, or interns if deemed necessary.

- J. The Board will receive, cause investigation of, and find a resolution of complaints filed with it, or on its own complaint based on information that comes to its attention, alleging misconduct by City Police Officers, Police Department employees, and/or NCAT Administrators. The misconduct alleged will include but is not limited to the use of force or police practices. The Board shall abide by the following investigation processes:
1. The Board must investigate allegations of Police Officer or City employee misconduct, regardless of any fact or belief that another investigative agency, including the internal affairs of the Police Department or a non-federal law-enforcement agency is investigating or has already investigated and concluded that no misconduct or something less serious than the misconduct a complainant alleged took place.
  2. The Board, or any person authorized by it, may, in accordance with state and federal evidentiary limits, compel the attendance of witnesses and the production of evidence, and for that purpose may issue subpoenas or attachments, to be signed by the Board's Chair, which will be served and executed by any officer authorized to serve subpoenas and other processes.
  3. City Council may provide by ordinance the penalty or penalties for contempt in refusing to obey any such subpoenas or to produce such evidence. If Council fails to do so, the Board may establish such penalties.
  4. Except as otherwise provided by this section and subject to approval by the DEI Office, the Board shall make rules providing for its own procedure and review of complaints.
  5. The Board may veto a complaint if, by a unanimous vote of Board members, the complaint is deemed frivolous;
  6. Investigations need not be confined to allegations originally set forth in the complaint. Investigations may expand to other matters of Police or NCAT conduct and potential violations based upon facts and allegations uncovered in an investigation.
  7. During an investigation, the City, Police Department, Police Department employees, and NCAT will assist the Board to investigate the Police Department, NCAT, and any complaints that arise.
  8. Before taking action on a complaint or determining that a complaint warrants no action, the Board may hold a hearing, under its rules.
  9. Any decision or deliberation about whether to act or not act on a complaint must take place in an open meeting.
  10. If the Board decides that the facts found in an investigation suggest that the Police Department or NCAT Department should amend policies, rules, and regulations, the Board should submit its recommendation and reasoning to Council, and must notify the complainant that it has done so.
  11. Concluding each investigation, the Board shall decide what, if any, discipline should be imposed on the officers or employees of the Police Department or NCAT. The Board may take action including but not limited to the termination or discipline of any officer, chief, employee, or Administrator of the Police Department or NCAT.
  12. The Board may veto any decision to not take disciplinary action on any given officers or employees of the Police Department or NCAT Administrator. However, they may not reduce any disciplinary action. No public employee or official may reduce or diminish any disciplinary action made by the Board. These bodies may add additional disciplinary actions if they deem necessary.
  13. All City employees shall be subject to disciplinary hearings held by the Board for any action taken to cause undue delay or unreasonable burden to an investigation.
  14. The Board shall forthwith certify in writing the cause of the discipline, to the Chief of Police and the public. The Board must promptly notify complainants of the status, progress, and disposition of their complaints. If the Board determines that the complaint warrants no action, the Board shall notify the complainant, the Chief of Police, and the public.
  15. The Board may terminate any given Officer, NCAT Administrator, or employee of said departments for the use of language or action on duty or off-duty that is deemed to be racist, sexist, anti-LGBTQ+, anti-immigrant, national-origin-

- based, or otherwise bigoted conduct, and slurs or hateful actions.
16. Any decision or action taken by the Board shall be kept in public records and their destruction or redaction shall be prohibited.
  17. Any complaint made by a civilian against an NCAT Department employee must be promptly transmitted to the Board by the respective department.
  18. The Board must notify such complainants of their right to seek ultimate review by the Board and must inform them of their right to seek counsel.
  19. The Chief of Police, the Board, and the Civilian Police Oversight Board must timely and consistently notify complainants about the investigation of their complaint, and afford complainants, the right to be heard in every step of the disciplinary process, without limitation, from the investigation, and through hearings, reviews and internal appeals, arbitrations, and court proceedings. The board must investigate all complaints if not vetoed, as proclaimed above.
  20. Nothing in this Section may be interpreted as depriving City employees of due process.
- K. The Board shall review data and records on traffic citation distribution and police officer and NCAT Administrator placement to ensure that our public safety forces are not intentionally discriminating by any means. The Police Department and NCAT shall not be discriminatory when issuing citations, patrolling, or performing any other duty. The Board shall review all cases where the use of force or a firearm is used by a Police Officer or NCAT. The first action after the creation of the Board shall be for said Board to review all sworn officers of the Police Department for racial bias or bias by any other means.
- L. The Board may opt, if it deems the Director of Law to have a conflict of interest, to engage outside counsel to be paid for by the City. The Board may also opt to keep the process of complaint or misconduct review privileged from any City employee if they are deemed to have a conflict of interest.
- M. The Board will perform such other duties consistent with this Amendment's other provisions and shall vote on and appoint the Chief DEI Officer, whose salary shall be determined by City Council.

#### ***IV. DEI Office***

- A. The Chief DEI Officer and City Council shall create a DEI Office to assist in the creation of the Citizen Police Oversight Board.
- B. DEI Office (hereinafter "Office") employees shall be appointed by the Chief DEI Officer and confirmed by City Council.
- C. The Office shall assist the City Council and the Chief DEI Officer in efforts of equality and diversity in the City.
- D. After six months from the effective date of this Amendment, the DEI Office shall be created and make publicly known the timeline for the activation of NCAT and the Board.
- E. On or before the 7th day following the 1st and 3rd quarters of each fiscal year, the Chief DEI Officer shall make a publicly available written report to the Finance Committee, DEI Office, and the Civilian Oversight Board describing and assessing: the cooperation of the Police Department, and any other relevant City Department, in fulfilling the requirements for the activation of this Amendment.
- F. The DEI Office shall oversee the creation of NCAT uniforms and vehicle identification with an emphasis on making them easily identifiable and non-threatening.

#### ***V. Creation of the Public Records Repository***

- A. Pursuant to the schedule described herein and to the fullest extent possible by law, the City shall publish on its website a searchable and downloadable Repository comprised of written reports of any police and NCAT execution of duty and finalized investigations against sworn officers of the Police Department, as well as stops of NCAT Administrators and investigations against NCAT Administrators. This Repository shall list, as available:
  1. the log number;
  2. the complaint or other notification type and category;
  3. the names of each accused member of the Police Department and NCAT;
  4. the name of the investigating agencies;

5. the final disciplinary decision or other final disposition;
  6. The total use of force incidents by the Police Department and NCAT, which will be categorized by type of force including;
    - a. Fist combat;
    - b. Leg combat;
    - c. Use of firearm;
    - d. Use of pepper spray;
    - e. Use of chokehold;
    - f. Use of baton;
    - g. Use of taser;
    - h. Use of takedown;
    - i. Use of canine;
    - j. Use of compliance hold;
    - k. Any of the additional use of force technique;
    - l. The racial/ethnic breakdown of each use of force incident;
    - m. The total number of citations given out per year by the Police Department and the racial/ethnic breakdown of the citations issued;
    - n. A listing of sworn City Police Officers which is in order by use of force incidents;
    - o. A listing of NCAT Administrators which is in order by use of force incidents;
    - p. A listing of sworn Police Officers which is categorized by citations issued by race; and
    - q. A listing of NCAT Administrators which is categorized by citations issued by race;
  7. The Repository shall include all available data and public records of the Police Department and police officers for the preceding seventy years. After seventy years from the date of the alleged incident, the records may be archived.
  8. A detailed profile of every sworn Police Officer and every NCAT Administrator including but not limited to:
    - a. The given officer's average annual use of force incidents;
    - b. The given officer's total use of force incidents;
    - c. The given officer's average annual number of citations distributed;
    - d. The given officer's total number of citations distributed;
    - e. The given officer's racial/ethnic breakdown of use of force incidents and citations distributed;
    - f. The given officer's categorization of types of force used on subjects as detailed herein;
    - g. An option to submit a complaint specific to the given sworn officer by badge number or name.
- B. The Police Information Unit, the Board, or other committee if created by Council shall take all reasonable steps to make every record as described in this Amendment accessible to the public as permitted by law. Records may be removed by the Board or DEI Office when deemed a risk to public safety. City Council in conjunction with the DEI Office will provide by ordinance the penalty or penalties for contempt in refusing to obey any requests made to publish these files.
- C. No report or other published account of a finalized investigation shall include information prohibited from disclosure by law.
- D. Beginning on the effective date, the Police Department and Police Information Unit shall begin to provide copies of all documents from each investigative file and police written/digital report files as proclaimed above. This provision of documents to the committee or body as created by City Council to create the Repository shall occur no later than six months after the effective date of this Amendment. The timeline for the creation of the Repository shall be as follows: The Police Public Information Unit and committee or body tasked with creating and maintaining the Repository shall update the Repository with all available new data and records within forty-eight hours.
- E. The Civilian Police Oversight Board shall review all claims of inability to produce public records and data.
- F. By no means shall a Repository not be created.

*VI. Timeline of Implementation*

- A. The City shall report to the public a timeline of implementation with monthly progress reports and a deadline for full implementation.
- B. The Chief DEI Officer shall publish written bi-monthly reports on the following: The Police Information Unit, the Finance Committee, and any other participating public body's overall progress in implementation of this Amendment.
- C. After three months from the effective date of this Amendment, City Council shall finalize a budget for this Amendment's implementation. Council shall create a special committee to oversee the full implementation of this Amendment.
- D. Funds required to support the implementation of and to meet the other obligations in this Amendment shall be allocated in majority from the Police Department budget to the extent permitted by law, and then through the City's reserved fund to the extent permitted by law, and shall not diminish any other City operations to the extent possible.
- E. All sections of this Amendment shall be implemented by the dates specified within the Amendment where provided, and the Amendment will be fully implemented by no later than January 1, 2025.

*VII. Severability*

- A. If any provision, section, subsection, sentence, phrase, clause, and word of this Amendment, or the application thereof to any Person or any circumstance, is invalid or unenforceable as ruled by a court of competent jurisdiction, a suitable and equitable provision, section, subsection, sentence, phrase, clause, or word shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, section, subsection, sentence, phrase, clause, or word. The remainder of this Amendment and the application of such provision, section, subsection, sentence, phrase, clause, or word to other Persons or circumstances shall not be affected by such invalidity or unenforceability.