

**Regular Agenda: P & Z Items 2, 3, & 4
(See Committee Agenda Documents)**

**CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET**

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

**Planning & Zoning COMMITTEE: 4/25/2023
DATE
PUBLIC SESSION: 4/25/2023
DATE**

ITEM (**CHECK ONE**)
 ORDINANCE RESOLUTION REQUEST FOR PUBLIC HEARING

ITEM DESCRIPTION: Resolution pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code approving a planned development at the subject property located at 4747 Getwell Road, known as case number PD 22-21

CASE NUMBER: PD 22-21

DEVELOPMENT: Smith Family Planned Development

LOCATION: 4747 Getwell Road

COUNCIL DISTRICTS: District 3 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Willie Smith Sr.

REPRESENTATIVE: Brenda Solomito Basar, Solomito Land Planning

REQUEST: Planned Development to allow limited number of CMU-1 uses

AREA: +/-1.247 acres

RECOMMENDATION: The Division of Planning and Development recommended *Approval with conditions*
 The Land Use Control Board recommended *Approval with conditions*

RECOMMENDED COUNCIL ACTION: **Public Hearing NOT Required**
 Public hearing – April 25, 2023

PRIOR ACTION ON ITEM:

(1) _____	APPROVAL - (1) APPROVED (2) DENIED
02/9/2023 _____	DATE
(1) Land Use Control Board _____	ORGANIZATION - (1) BOARD / COMMISSION
	(2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:

(2) _____	REQUIRES CITY EXPENDITURE - (1) YES (2) NO
\$ _____	AMOUNT OF EXPENDITURE
\$ _____	REVENUE TO BE RECEIVED

SOURCE AND AMOUNT OF FUNDS

\$ _____	OPERATING BUDGET
\$ _____	CIP PROJECT # _____
\$ _____	FEDERAL/STATE/OTHER

ADMINISTRATIVE APPROVAL:

DATE POSITION

_____	_____	PRINCIPAL PLANNER
_____	_____	DEPUTY ADMINISTRATOR
_____	_____	ADMINISTRATOR
_____	_____	DIRECTOR (JOINT APPROVAL)
_____	_____	COMPTROLLER
_____	_____	FINANCE DIRECTOR
_____	_____	CITY ATTORNEY

CHIEF ADMINISTRATIVE OFFICER

COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

PD 22-21

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A PLANNED DEVELOPMENT AT THE SUBJECT PROPERTY LOCATED AT 4747 GETWELL ROAD, KNOWN AS CASE NUMBER PD 22-21

- This item is a resolution with conditions to allow a planned development with limited CMU-1 uses; and
- This resolution, if approved with conditions, will supersede the existing zoning for this property; and
- The item may require future public improvement contracts.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, February 9, 2023**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: PD 22-21

DEVELOPMENT: Smith Family Planned Development

LOCATION: 4747 Getwell Road

COUNCIL DISTRICT(S): District 3 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Willie Smith Jr.

REPRESENTATIVE: Brenda Solomito Basar, Solomito Land Planning

REQUEST: Planned Development to allow limited number of CMU-1 uses

EXISTING ZONING: Conservation Agriculture – CA

AREA: +/- 1.247 acres


The following spoke in support of the application: None

The following spoke in opposition the application: Cheryl Hopper, Laura Payne, and James Newsom

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval with conditions.

The motion passed by a unanimous vote of 8-0 on the regular agenda.

Respectfully,



Jordan McKenzie
Principal Planner
Land Use and Development Services
Division of Planning and Development

Cc: Committee Members
File

**PD 22-21
CONDITIONS**

Outline Plan Conditions

I. Uses Permitted

A. The following Uses are permitted

1. Single-Family Detached Conventional, Side Yard House Cottage, Single-Family Attached Semi-attached, and Two-Family Townhouse.
2. Multifamily Large Home
3. Stacked Townhouse Apartment
4. Upper-Story Residential Live/Work
5. Nursing Home, Full-time Convalescent, Hospice, Assisted Living Facility, Residential Home for the Elderly, Independent Living Facility
6. Personal Care Home for the Elderly Supportive Living Facility
7. Police, Fire, EMS Substation
8. Neighborhood Arts Center or Similar Community Facility (public) Philanthropic Institution
9. Places of worship and off-site parking for places of worship
10. Social service institutions
11. Restaurants, including restaurants or other retail with a drive thru.
12. Retail sales and services
13. Personal Services including Hair, nail, tanning, massage therapy and personal care service, barber shop or beauty salon.
14. Offices
15. Bakery, Retail

B. The following uses are strictly prohibited.

1. Payday loans, title loans and flexible loan plan establishments
2. Pawn shop
3. Tattoo, Palmist, Psychic or Medium
4. Vapor shop
5. Heliport
6. Drive-in theater
7. Campground
8. Undertaking establishment
9. Garbage/refuse collection
10. Adult entertainment
11. Landfill
12. Off-premise advertising sign
13. Manufacture of chemical, cosmetic, drug, soap, paints, fertilizer, abrasive products, fabricated metal products/machinery or other products which create noxious fumes boat rental, sales, or storage.
14. Tavern, cocktail lounge or night club

15. Outdoor sales

II. Bulk Regulations

- A. The development shall comply with the bulk requirements of the Commercial Mixed Use (CMU-1) District.

III. Access, Parking and Circulation

- A. One curb cut is permitted on Getwell Road.
- B. There shall be no curb cut permitted on Faulkner Road.
- C. The design and location of the curb cut shall be approved by the City Engineer.
- D. Internal circulation between adjacent phases, lots, sections shall be provided.
- E. The minimum sight distance and geometry requirements for public streets shall comply with the Unified Development Code.
- F. All required parking shall be as illustrated on the final plat. No parking shall be allowed on any adjacent lots or parcels.
- G. Adequate queuing spaces in accordance with the Unified Development Code shall be provided between any gate/guardhouse/card reader for vehicles to exit by forward motion.
- H. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

IV. Drainage

- A. Drainage improvements, including possible on-site detention, to be provided under contract in accordance with the City of Memphis Drainage Design Manual.
- B. This project must be evaluated by the Tennessee Department of Health and Environment regarding their jurisdiction over the watercourses on this site in accordance with the Water Quality Control Act of 1977 as amended (TCA 69-3-101 et seq).
- C. All drainage plans shall be subject to the City/County Engineer's Office review and approval.
- D. All drainage emanating on-site shall be private in nature and no easements will be accepted.
- E. All commons, open areas, private streets, private sewers and private drainage shall be owned and maintained by a property owners association. A statement to this effect shall appear on the final plat.

- F. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by “Reserved for Storm Water Detention” shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners’ association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer’s Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

V. Landscaping

- A. Landscaping shall be provided as illustrated on the Final Site Plan and Landscape Plan.
- B. Dumpsters shall be enclosed on all four sides with wood, brick, or other solid materials as approved by the Office of Planning and Development.
- C. Lighting shall be directed to not glare onto residential property or onto traffic on Malone Road.

VI. Signs

- A. Signage shall be in conformance with the CMU-1 District regulations.

VII. The Land Use Control Board may modify the bulk, access, parking, landscaping and sign requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may, within ten days of such action, file a written appeal to the Director of the Office of Planning and Development, to have such action reviewed by the appropriate Governing Bodies.

VIII. A final plan shall be filed within five (5) years of approval of the outline plan. The Land Use Control Board may grant extensions at the request of the applicant.

IX. A final site plan will be submitted for approval by the Land Use Control Board to finalize the elevations, building materials, circulation, landscaping, parking, location of the building, etc.

X. Any final plan shall include the following:

- A. The outline plan conditions.
- B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements.
- C. The exact location and dimensions, including height of all building or buildable areas, parking areas, drives, loading spaces and facilities, elevations, required landscaping, trash receptacles

and signs, etc...

- D. The number of parking spaces.
- E. The location and ownership, whether public or private, of any easement.
- F. A statement conveying all common facilities and areas to a property owners association, or other entity, for ownership and maintenance purposes.
- G. The 100-year flood elevation.
- H. A lighting plan detailing the location, height, style, direction, etc. of all outdoor lighting and a photometric plan shall be submitted for administrative review and approval by the Division of Planning and Development.

CONCEPT PLAN (REVISED AFTER FEB 9TH MEETING)





RUFENY LLC
 21189240
 1.28 ACRES

MONTEC BUSH
 100' x 100'
 0.14 ACRES



GETWELL ROAD
 (R.O.W. VARIES)

FAULKNER ROAD
 (50' R.O.W.)

BRISQITE UNITED
 METHODIST CHURCH
 100' x 110'
 0.10 ACRES

CHRIS CLARK
 100' x 100'
 0.12 ACRES

48 GETWELL LLC
 100' x 100'
 0.12 ACRES

500' x 100'

100' x 100'

BRISQITE UNITED
 METHODIST CHURCH
 100' x 100'
 0.12 ACRES



NOTES:
 1. LANDLORD: RUFENY LLC
 2. FLOORPLAN AS SHOWN
 THIS PROJECT IS NOT A DESIGN IN A SPECIAL PLACE
 (SPECIAL PLACE) AND IS NOT A SPECIAL PLACE (SPECIAL PLACE)
 AND IS NOT A SPECIAL PLACE (SPECIAL PLACE) AND IS NOT A
 SPECIAL PLACE (SPECIAL PLACE) AND IS NOT A SPECIAL PLACE
 (SPECIAL PLACE)
 3. PROVIDED FROM MEMPHIS, TENNESSEE
 4. DATE: 10/10/2019

CONCEPT PLAN
 CASE:
OUTLINE PLAN
4747 GETWELL
ROAD
MEMPHIS, TENNESSEE
 TOTAL AREA: 211,892 sq. ft.
 WARD 013, BLOCK 111, PARCEL 0000
 No. OF LOTS: 1
 100 YEAR FLOOD ELEV: 233
 OWNER/DEVELOPER:
 WILLE SMITH SR.
 1822 Brookside Road
 Germantown, TN 38148
 PREPARED BY:
SOLOMITO
 CONSULTING ENGINEERS
 10000 WOODBURN AVENUE, SUITE 100
 MEMPHIS, TN 38119

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A PLANNED DEVELOPMENT AT THE SUBJECT PROPERTY LOCATED AT 4747 GETWELL ROAD, KNOWN AS CASE NUMBER PD 22-21

WHEREAS, Chapter 9.6 of the Memphis and Shelby County Unified Development Code, being a section of the Joint Ordinance Resolution No. 5367, dated August 10, 2010, authorizes the Council of the City of Memphis to grant a planned development for certain stated purposes in the various zoning districts; and

WHEREAS, the Willie Smith Jr. filed an application with the Memphis and Shelby County Division of Planning and Development to allow limited CMU-1 uses at the Smith Family Planned Development ; and

WHEREAS, the Division of Planning and Development has received and reviewed the application in accordance with procedures, objectives and standards for planned developments as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation subject to outline plan conditions concerning the above considerations to the Memphis and Shelby County Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on February 9, 2023, and said Board has submitted its findings and recommendation subject to outline plan conditions concerning the above considerations to the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 General Plan; and

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Division of Planning and Development and has determined that said development meets the objectives, standards and criteria for a special use permit, and said development is consistent with the public interests.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF MEMPHIS, that, pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code, a planned development is hereby granted in accordance with the attached outline plan conditions.

BE IT FURTHER RESOLVED, that the requirements of said aforementioned clause of the Unified Development Code shall be deemed to have been complied with; that the outline plan shall bind the applicant, owner, mortgagee, if any, and the legislative body with respect to the contents of said plan; and the applicant and/or owner may file a final plan in accordance with said outline plan and the provisions of Section 9.6.11 of the Unified Development Code.

ATTEST:

**CC: Division of Planning and Development
– Land Use and Development Services
– Office of Construction Enforcement**

OUTLINE PLAN CONDITIONS

I. USES PERMITTED

A. The following Uses are permitted

1. Single-Family Detached Conventional, Side Yard House Cottage, Single-Family Attached Semi-attached, and Two-Family Townhouse.
2. Multifamily Large Home
3. Stacked Townhouse Apartment
4. Upper-Story Residential Live/Work
5. Nursing Home, Full-time Convalescent, Hospice, Assisted Living Facility, Residential Home for the Elderly, Independent Living Facility
6. Personal Care Home for the Elderly Supportive Living Facility
7. Police, Fire, EMS Substation
8. Neighborhood Arts Center or Similar Community Facility (public) Philanthropic Institution
9. Places of worship and off-site parking for places of worship
10. Social service institutions
11. Restaurants, including restaurants or other retail with a drive thru.
12. Retail sales and services
13. Personal Services including Hair, nail, tanning, massage therapy and personal care service, barber shop or beauty salon.
14. Offices
15. Bakery, Retail

B. The following uses are strictly prohibited.

1. Payday loans, title loans and flexible loan plan establishments
2. Pawn shop
3. Tattoo, Palmist, Psychic or Medium
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7. Campground
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9. Garbage/refuse collection
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II. BULK REGULATIONS

- A. The development shall comply with the bulk requirements of the Commercial Mixed Use (CMU-1) District.

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IV. DRAINAGE

- A. Drainage improvements, including possible on-site detention, to be provided under contract in accordance with the City of Memphis Drainage Design Manual.
- B. This project must be evaluated by the Tennessee Department of Health and Environment regarding their jurisdiction over the watercourses on this site in accordance with the Water Quality Control Act of 1977 as amended (TCA 69-3-101 et seq).
- C. All drainage plans shall be subject to the City/County Engineer's Office review and approval.
- D. All drainage emanating on-site shall be private in nature and no easements will be accepted.
- E. All commons, open areas, private streets, private sewers and private drainage shall be owned and maintained by a property owners association. A statement to this effect shall appear on the final plat.
- F. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of

sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

V. LANDSCAPING

- A. Landscaping shall be provided as illustrated on the Final Site Plan and Landscape Plan.
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- C. Lighting shall be directed to not glare onto residential property or onto traffic on Malone Road.

VI. SIGNS

- A. Signage shall be in conformance with the CMU-1 District regulations.

VII. The Land Use Control Board may modify the bulk, access, parking, landscaping and sign requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may, within ten days of such action, file a written appeal to the Director of the Office of Planning and Development, to have such action reviewed by the appropriate Governing Bodies.

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- D. The number of parking spaces.
- E. The location and ownership, whether public or private, of any easement.
- F. A statement conveying all common facilities and areas to a property owners association, or other entity, for ownership and maintenance purposes.
- G. The 100-year flood elevation.
- H. A lighting plan detailing the location, height, style, direction, etc. of all outdoor lighting and a photometric plan shall be submitted for administrative review and approval by the Division of

Planning and Development.

CONCEPT PLAN



AGENDA ITEM: 5

CASE NUMBER: PD 2022-021 **L.U.C.B. MEETING:** February 9, 2023

DEVELOPMENT: Smith Family Planned Development

LOCATION: 4747 Getwell Road

COUNCIL DISTRICT: District 3 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Willie Smith Sr.

REPRESENTATIVE: Brenda Solomito Basar, Solomito Land Planning

REQUEST: Planned Development to allow limited number of CMU-1 uses.

AREA: +/- 1.247 acres

EXISTING ZONING: Conservation Agriculture - CA

CONCLUSIONS

1. The applicant is requesting a Planned Development with a limited number of CMU-1 uses as listed by the outline plan conditions.
2. A retail/restaurant as a principal use is not permitted by right under the current zoning but will be under the outline plan conditions.
3. The subject property is currently vacant, and the planned development will create more desirable infill development
4. Currently the property has been cleared of vegetation, so the proposed landscaping as seen in the outline plan is inaccurate.
5. The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
6. The location and arrangement of the structures, parking areas, walks, lighting, and other service facilities are compatible with the surrounding land uses.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 23-25 of this report.

RECOMMENDATION

Approval with conditions

GENERAL INFORMATION

Street Frontage:	Getwell Road	+/-144.7 linear feet
	Faulkner Road	+/-68.3 linear feet
Zoning Atlas Page:	2440	
Parcel ID:	073111 00005	
Existing Zoning:	Conservation Agriculture - CA	

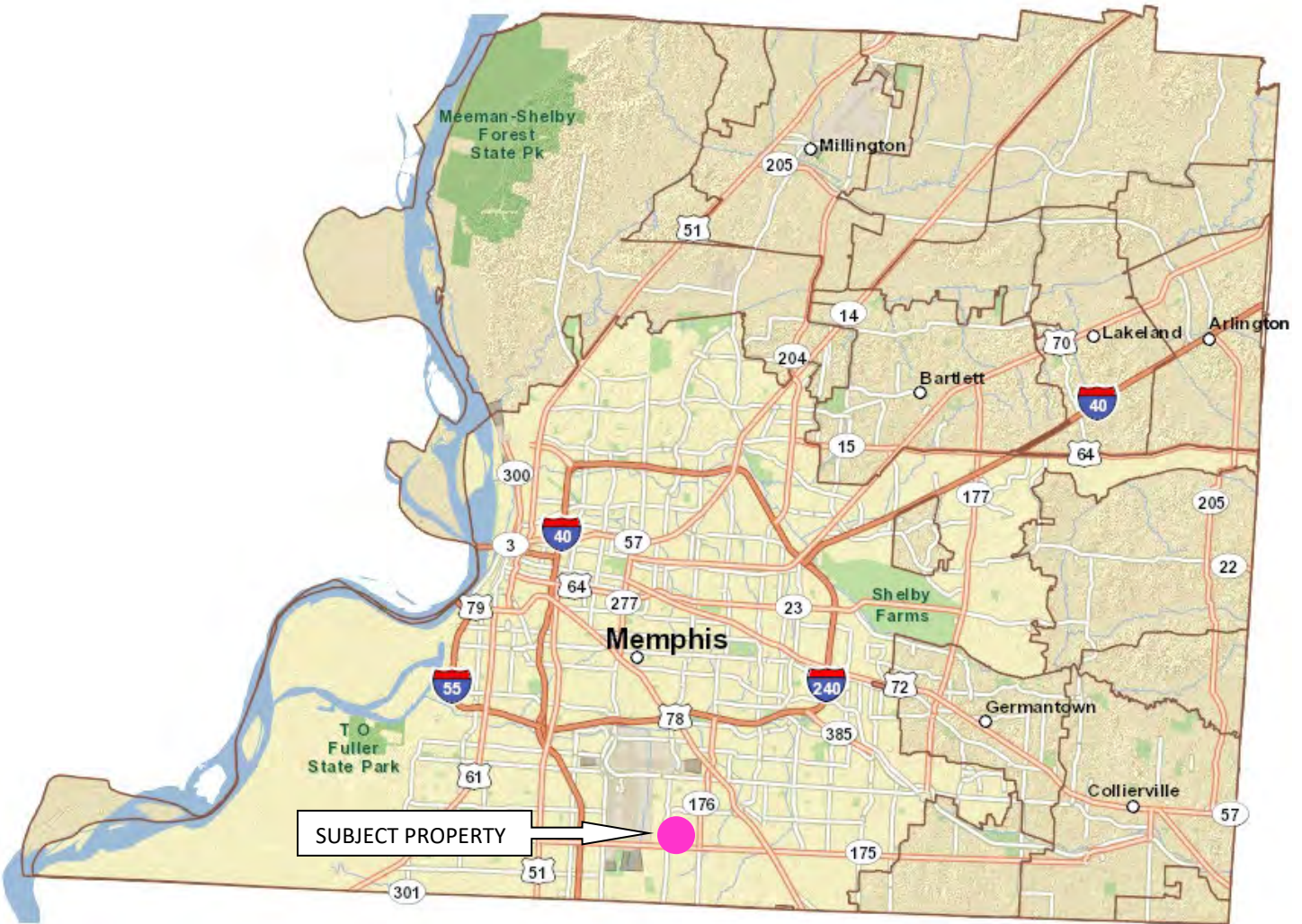
NEIGHBORHOOD MEETING

The meeting was held at 6:30 PM on Thursday 29, 2022, at McDonald's, 3845 E. Shelby Drive.

PUBLIC NOTICE

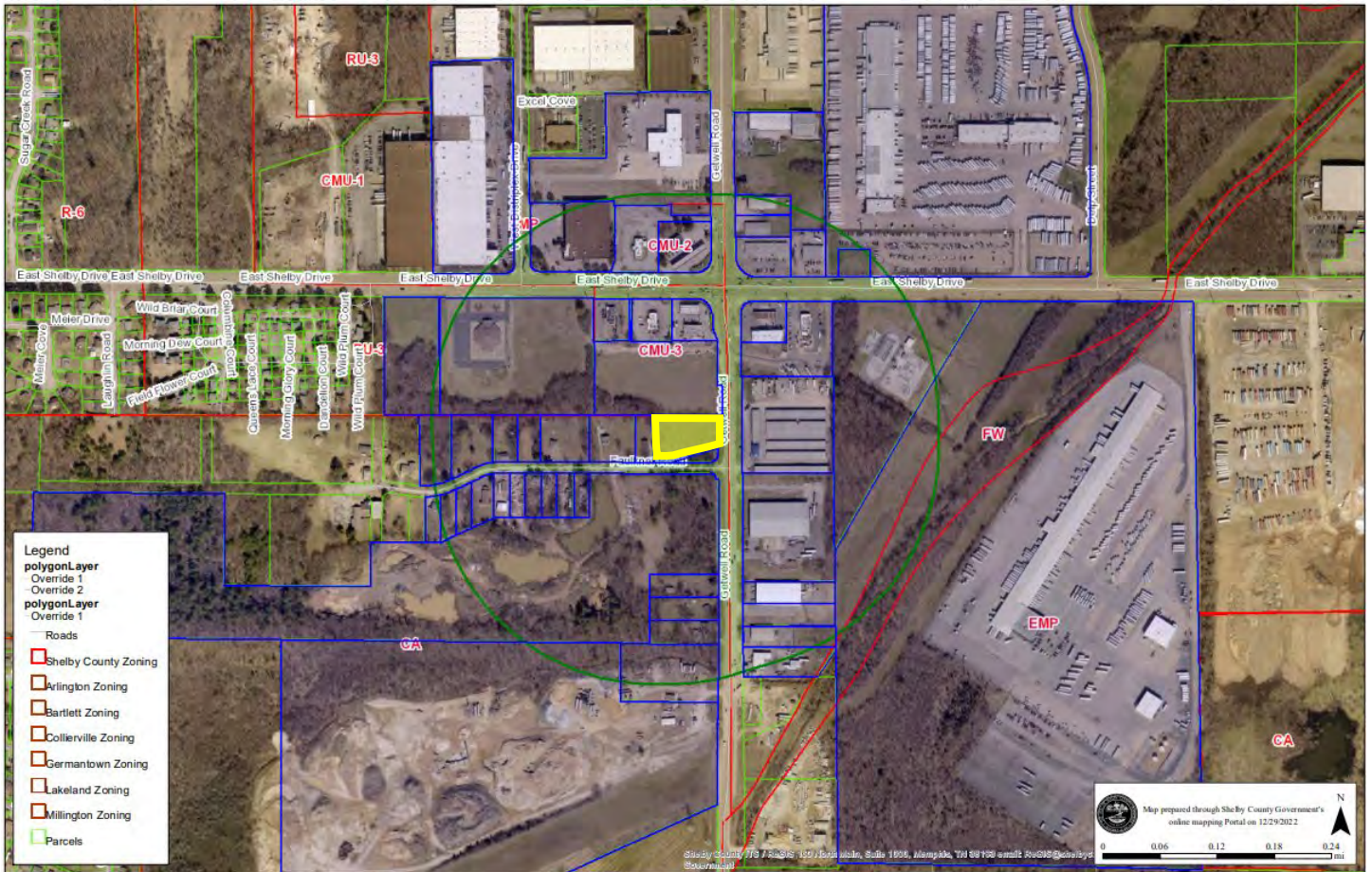
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of **53 notices** were mailed on December 29, 2022, and a total of 1 sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within the pink circle, near the Airport Industrial Park Area

VICINITY MAP



Subject property highlighted in yellow

AERIAL



Subject property outlined in yellow, imagery from January 5, 2023

ZONING MAP



Subject property highlighted in yellow

Existing Zoning: Conservation Agriculture - CA

Surrounding Zoning

North: Commercial Mixed-Use -3 (CMU-3)

East: Employment - EMP

South: Conservation Agriculture - CA

West: Conservation Agriculture - CA

LAND USE MAP



Subject property indicated by a pink star

SITE PHOTOS



View of the center of the subject property from Getwell Road looking south



View of the subject property from Getwell Road looking West

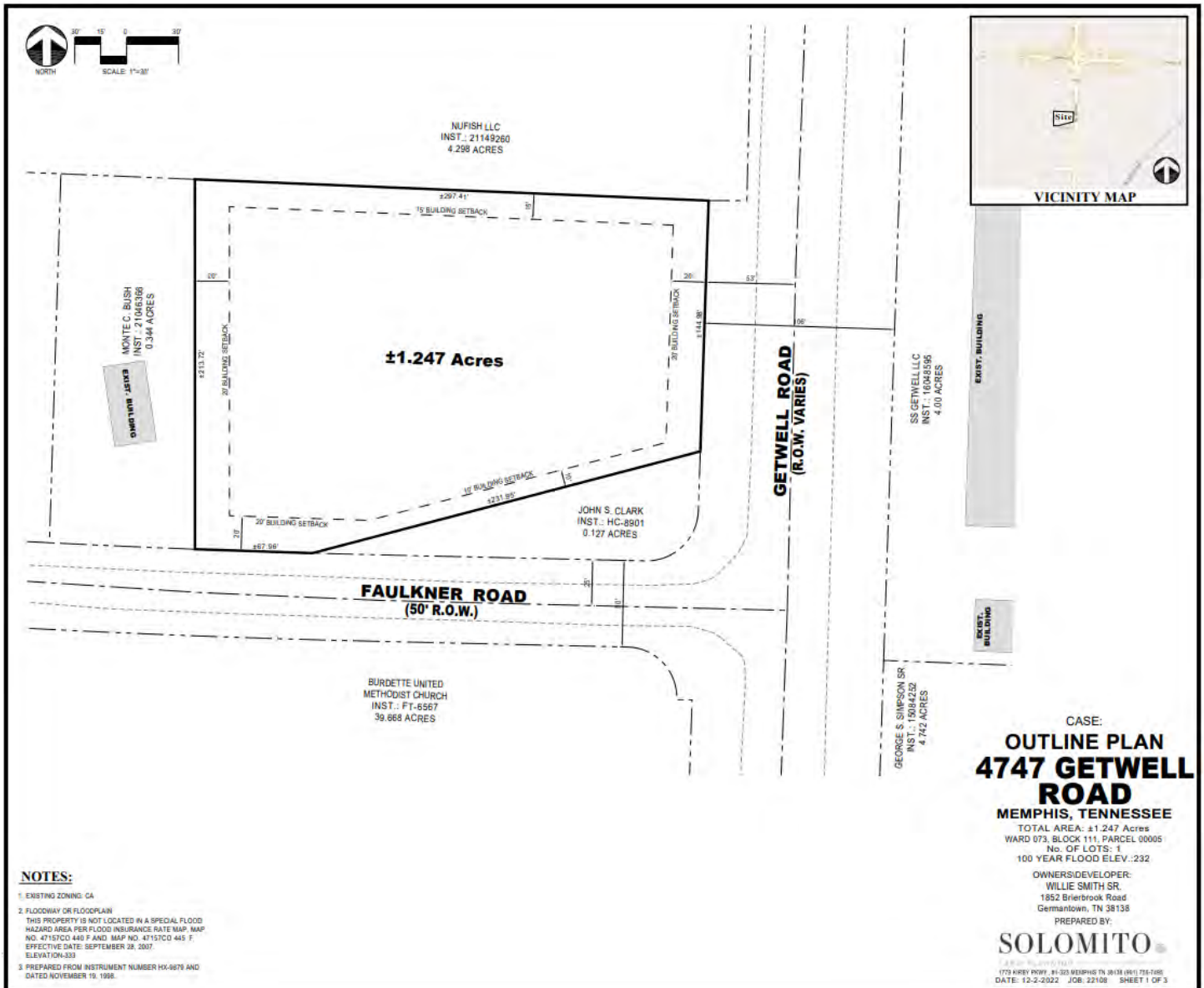


View of the subject property from the corner of Faulkner and Getwell Road looking northwest



View of the subject property from Faulkner Road looking North (Image from 2019)

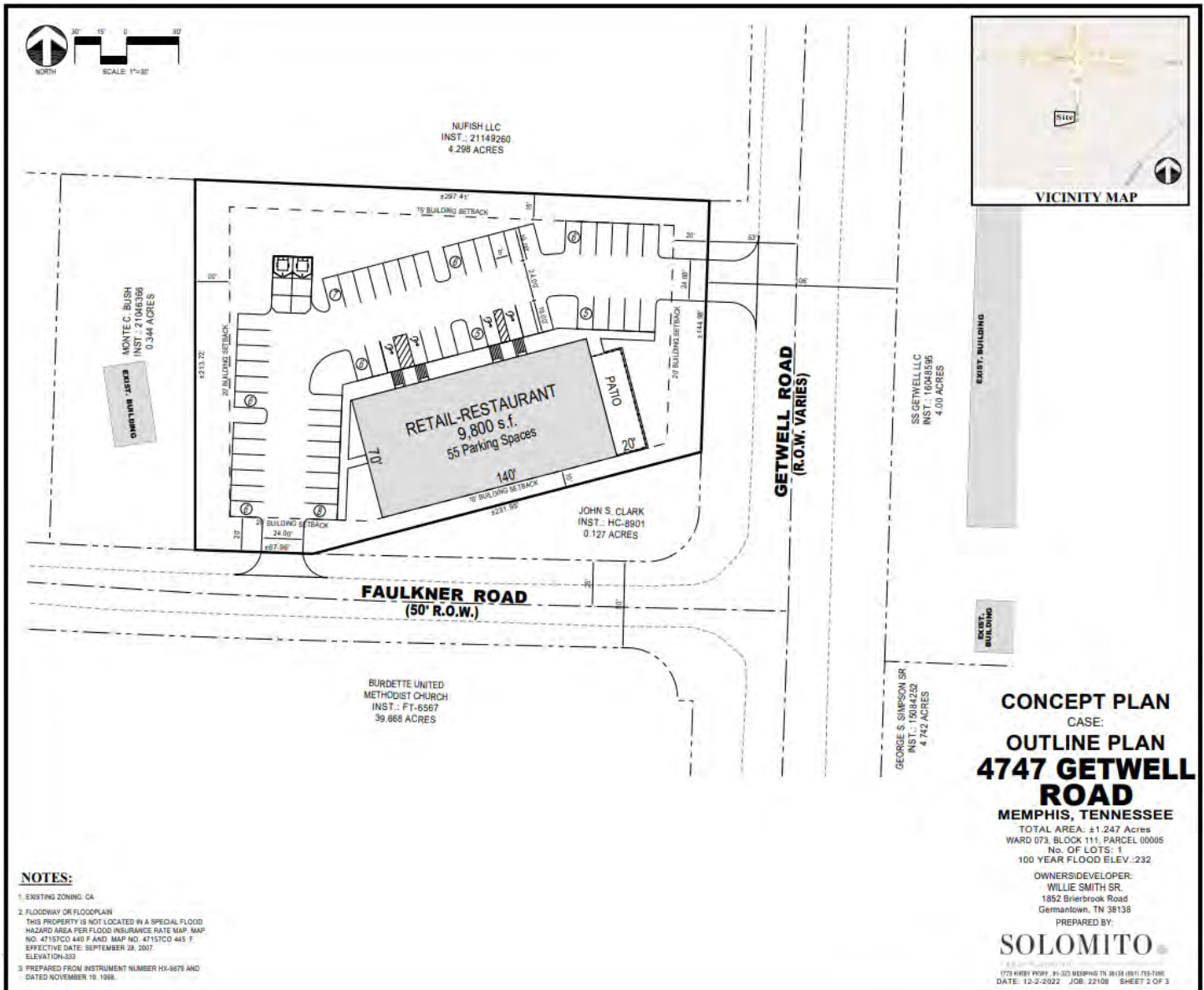
OUTLINE PLAN



NOTES:
 1. EXISTING ZONING: CA
 2. FLOODWAY OR FLOODPLAIN
 THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA PER FLOOD INSURANCE RATE MAP, MAP NO. 47157CO 448-F AND MAP NO. 47157CO 445-F, EFFECTIVE DATE: SEPTEMBER 28, 2007. ELEVATION: 333
 3. PREPARED FROM INSTRUMENT NUMBER HX-6679 AND DATED NOVEMBER 19, 1996.

CASE:
OUTLINE PLAN
4747 GETWELL ROAD
MEMPHIS, TENNESSEE
 TOTAL AREA: ±1.247 Acres
 WARD 073, BLOCK 111, PARCEL 00005
 No. OF LOTS: 1
 100 YEAR FLOOD ELEV.: 232
 OWNERS/DEVELOPER:
 WILLIE SMITH SR.
 1352 Briarbrook Road
 Germantown, TN 38138
 PREPARED BY:
SOLOMITO
1773 KIRBY POYB, #1-303 MEMPHIS TN 38108 (901) 755-1085
 DATE: 12-2-2022 JOB: 22108 SHEET 1 OF 3

CONCEPT PLAN



NOTES:
 1. EXISTING ZONING: CA
 2. FLOODWAY OR FLOODPLAIN
 THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA PER FLOOD INSURANCE RATE MAP, MAP NO. 47157CO 445-F AND MAP NO. 47157CO 445-F, EFFECTIVE DATE: SEPTEMBER 28, 2007. ELEVATION: 333
 3. PREPARED FROM INSTRUMENT NUMBER HV-6075 AND DATED NOVEMBER 19, 1998.

CONCEPT PLAN
 CASE:
OUTLINE PLAN
4747 GETWELL ROAD
MEMPHIS, TENNESSEE
 TOTAL AREA: 41.247 Acres
 WARD 073, BLOCK 111, PARCEL 00005
 No. OF LOTS: 1
 100 YEAR FLOOD ELEV.: 232
 OWNERS/DEVELOPER:
 WILLIE SMITH SR.
 1952 Briarbrook Road
 Germantown, TN 38138
 PREPARED BY:
SOLOMITO
1779 ARREY POWY, #1-323 MEMPHIS TN, 38118 (901) 752-7385
 DATE: 12-2-2022 JOB: 22108 SHEET 2 OF 3

STAFF ANALYSIS

Request

The application, PD general provisions, and letter of intent have been added to this report.

The request is to permit a limited number of CMU-1 uses

Applicability

Staff agrees the applicability standards and criteria as set out in Section 4.10.2 of the Unified Development Code are or will be met.

4.10.2 Applicability

The governing bodies may, upon proper application, grant a special use permit for a planned development (see Chapter 9.6) for a tract of any size within the City or for tracts of at least three acres in unincorporated Shelby County to facilitate the use of flexible techniques of land development and site design, by providing relief from district requirements designed for conventional developments, and may establish standards and procedures for planned developments in order to obtain one or more of the following objectives:

- A. Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.*
- B. Diversification in the uses permitted and variation in the relationship of uses, structures, open space and height of structures in developments intended as cohesive, unified projects.*
- C. Functional and beneficial uses of open space areas.*
- D. Preservation of natural features of a development site.*
- E. Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.*
- F. Rational and economic development in relation to public services.*
- G. Efficient and effective traffic circulation, both within and adjacent to the development site, that supports or enhances the approved transportation network.*
- H. Creation of a variety of housing compatible with surrounding neighborhoods to provide a greater choice of types of environment and living units.*
- I. Revitalization of established commercial centers of integrated design in order to encourage the rehabilitation of such centers in order to meet current market preferences.*
- J. Provision in attractive and appropriate locations for business and manufacturing uses in well-designed buildings and provision of opportunities for employment closer to residence with a reduction in travel time from home to work.*
- K. Consistency with the Memphis 3.0 General Plan.*

General Provisions

Staff agrees the general provisions standards and criteria as set out in Section 4.10.3 of the Unified Development Code are or will be met.

4.10.3 General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations of the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in this Chapter.

- A. *The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.*
- B. *An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.*
By providing a limited number of CMU-1 uses and designing the site so as to not negatively impact the surrounding properties, this site will be developed in a compatible manner and ample landscaping and buffering.
- C. *The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or access way shall be landscaped or otherwise improved except where natural features are such as to justify preservation.*
- D. *Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.*
- E. *Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.*
- F. *Lots of record are created with the recording of a planned development final plan.*

Commercial or Industrial Criteria

Staff agrees the additional planned commercial or industrial development criteria as set out in Section 4.10.5 of the Unified Development Code are or will be met.

4.10.5 Planned Commercial or Industrial Developments

Approval of a planned commercial or industrial development may be issued by the governing bodies for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotels and motels and similar facilities ordinarily accepted as commercial center uses and those industrial uses which can be reasonably be expected to function in a compatible manner with the other permitted uses in the area. In addition to the applicable standards and criteria set forth in Section 4.10.3, planned commercial or industrial developments shall comply with the following standards:

- A. *Screening*
When commercial or industrial structures or uses in a planned commercial or industrial development abut a residential district or permitted residential buildings in the same development, screening may be required by the governing bodies.
- B. *Display of Merchandise*
All business, manufacturing and processing shall be conducted, and all merchandise and materials shall be displayed and stored, within a completely enclosed building or within an open area which is completely screened from the view of adjacent properties and public rights-of-way, provided, however, that when an automobile service station or gasoline sales are permitted in a planned commercial development, gasoline may be sold from pumps outside of a structure.
- C. *Accessibility*
The site shall be accessible from the proposed street network in the vicinity which will be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development.

D. Landscaping

Landscaping shall be required to provide screening of objectionable views of uses and the reduction of noise. High-rise buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining low-rise buildings.

Approval Criteria

Staff agrees the approval criteria as set out in Section 9.6.9 of the Unified Development Code are being met.

9.6.9 Approval Criteria

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

- A. The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.*
- B. The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations.*
- C. The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services.*
- D. The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance.*
- E. The project complies with all additional standards imposed on it by any particular provisions authorizing such use.*
- F. The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties.*
- G. The governing bodies may impose conditions to minimize adverse effects on the neighborhood or on public facilities, and to insure compatibility of the proposed development with surrounding properties, uses, and the purpose and intent of this development code.*
- H. Any decision to deny a special use permit request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record, per the Telecommunications Act of 1996, 47 USC 332(c)(7)(B)(iii). The review body may not take into account any environmental or health concerns.*

Site Description

The subject property is +/-1.247 acres located on the west side of Getwell Road – approximately 525 feet south of East Shelby Drive. The site is currently a vacant lot with a Conservation Agriculture- CA zoning designation. There is an existing curb cut in disrepair on the Faulkner Road frontage (68.3 feet) but nothing along the Getwell Road frontage (144.7 feet). The parcel has overhead powerlines along Getwell Road and has been largely cleared of all vegetation/tree canopy. The property abuts the Faulkner Subdivision and is adjacent to EMP zoning across the street and CMU-3 zoning to the north.

Site Plan Review

- Retail/ Restaurant as a principal use is not permitted by right
- Total parking required 33, provided 55

- No open space calculation was given
- No landscape buffer is being proposed per the outline plan or concept plan
- The parking setback of at least 10 feet is met.
- Building setbacks appear to meet CMU-1 bulk regulations

Conclusions

The applicant is requesting a Planned Development with a limited number of CMU-1 uses as listed by the outline plan conditions.

A retail/restaurant as a principal use is not permitted by right under the current zoning but will be under the outline plan conditions.

The subject property is currently vacant, and the planned development will create more desirable infill development.

Currently the property has been cleared of vegetation, so the proposed landscaping as seen in the outline plan is inaccurate.

The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.

The location and arrangement of the structures, parking areas, walks, lighting and other service facilities are compatible with the surrounding land uses.

RECOMMENDATION

Staff recommends approval with site and outline plan conditions.

Outline Plan Conditions

Smith Family Planned Development
Proposed Outline Plan Conditions
January 4, 2023

I. Uses Permitted

A. The following Uses are permitted

1. Single-Family Detached Conventional, Side Yard House Cottage, Single-Family Attached Semi-attached, and Two-Family Townhouse.
2. Multifamily Large Home
3. Stacked Townhouse Apartment

4. Upper-Story Residential Live/Work
5. Nursing Home, Full-time Convalescent, Hospice, Assisted Living Facility, Residential Home for the Elderly, Independent Living Facility
6. Personal Care Home for the Elderly Supportive Living Facility
7. Police, Fire, EMS Substation
8. Neighborhood Arts Center or Similar Community Facility (public) Philanthropic Institution
9. Places of worship and off-site parking for places of worship
10. Social service institutions
11. Restaurants, including restaurants or other retail with a drive thru.
12. Retail sales and services
13. Personal Services including Hair, nail, tanning, massage therapy and personal care service, barber shop or beauty salon.
14. Offices
15. Bakery, Retail

B. The following uses are strictly prohibited.

1. Payday loans, title loans and flexible loan plan establishments
2. Pawn shop
3. Tattoo, Palmist, Psychic or Medium
4. Vapor shop
5. Heliport
6. Drive-in theater
7. Campground
8. Undertaking establishment
9. Garbage/refuse collection
10. Adult entertainment
11. Landfill
12. Off-premise advertising sign
13. Manufacture of chemical, cosmetic, drug, soap, paints, fertilizer, abrasive products, fabricated metal products/machinery or other products which create noxious fumes boat rental, sales, or storage.
14. Tavern, cocktail lounge or night club
15. Outdoor sales

II. Bulk Regulations

- A. The development shall comply with the bulk requirements of the Commercial Mixed Use (CMU-1) District.

III. Access, Parking and Circulation

- A. One curb cut is permitted on Getwell Road and one curb cut is permitted on Faulkner.

- B. The design and location of the curb cut shall be approved by the City Engineer.
- C. Internal circulation between adjacent phases, lots, sections shall be provided.
- D. The minimum sight distance and geometry requirements for public streets shall comply with the Unified Development Code.
- E. All required parking shall be as illustrated on the final plat. No parking shall be allowed on any adjacent lots or parcels.
- F. Adequate queuing spaces in accordance with the Unified Development Code shall be provided between any gate/guardhouse/card reader for vehicles to exit by forward motion.
- G. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

IV. Drainage

- A. Drainage improvements, including possible on-site detention, to be provided under contract in accordance with the City of Memphis Drainage Design Manual.
- B. This project must be evaluated by the Tennessee Department of Health and Environment regarding their jurisdiction over the watercourses on this site in accordance with the Water Quality Control Act of 1977 as amended (TCA 69-3-101 et seq).
- C. All drainage plans shall be subject to the City/County Engineer's Office review and approval.
- D. All drainage emanating on-site shall be private in nature and no easements will be accepted.
- E. All commons, open areas, private streets, private sewers and private drainage shall be owned and maintained by a property owners association. A statement to this effect shall appear on the final plat.
- F. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

V. Landscaping

- A. Landscaping shall be provided as illustrated on the Final Site Plan and Landscape Plan.

- B. Dumpsters shall be enclosed on all four sides with wood, brick, or other solid materials as approved by the Office of Planning and Development.
- C. Lighting shall be directed to not glare onto residential property or onto traffic on Malone Road.

VI. Signs

- A. Signage shall be in conformance with the CMU-1 District regulations.

VII. The Land Use Control Board may modify the bulk, access, parking, landscaping and sign requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may, within ten days of such action, file a written appeal to the Director of the Office of Planning and Development, to have such action reviewed by the appropriate Governing Bodies.

VIII. A final plan shall be filed within five (5) years of approval of the outline plan. The Land Use Control Board may grant extensions at the request of the applicant.

IX. A final site plan will be submitted for administrative approval to finalize the elevations, building materials, circulation, landscaping, parking, location of the building, etc.

X. Any final plan shall include the following:

- A. The outline plan conditions.
- B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements.
- C. The exact location and dimensions, including height of all building or buildable areas, parking areas, drives, loading spaces and facilities, elevations, required landscaping, trash receptacles and signs, etc...
- D. The number of parking spaces.
- E. The location and ownership, whether public or private, of any easement.
- F. A statement conveying all common facilities and areas to a property owners association, or other entity, for ownership and maintenance purposes.
- G. The 100-year flood elevation.
- H. A lighting plan detailing the location, height, style, direction, etc. of all outdoor lighting and a photometric plan shall be submitted for administrative review and approval by the Division of Planning and Development.

DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City/County Engineer:

1. Standard Public Improvement Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. City sanitary sewers are available to serve this development.
3. All sewer connections must be designed and installed by the developer. This service is no longer offered by the Public Works Division.
4. An overall sewer plan for the entire site shall be submitted to the City Engineer prior to approval of the first final plat.

Roads:

5. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
6. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
7. Improve and dedicate 54' from centerline for Getwell Rd.

Traffic Control Provisions:

8. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of sidewalk and curb and gutter improvements, a minimum 5-foot-wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5-foot clear pedestrian path, an exception may be considered.
9. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.
10. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

Curb Cuts/Access:

11. The City Engineer shall approve the design, number, and location of curb cuts.
12. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter, and sidewalk.

Drainage:

13. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.
14. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis/Shelby County Storm Water Management Manual.
15. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
16. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
17. A pro-rata Fee for major drainage improvements may be required by a phased development.
18. All drainage emanating on-site shall be private in nature and no public easements will be accepted.
19. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

Site Plan Notes:

20. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.
21. Residential lots with individual curb cuts to an arterial street must have a minimum 100 feet, a minimum lot depth of 150 feet, and provide an on-site turn around area permitting egress by forward motion. A note to this effect shall appear on the final plat in accordance with Section 403.4.A of the Unified Development Code.
22. Adequate queuing spaces in accordance with section 4.4.8 of the UDC shall be provided between the street right-of-way line and any proposed gate/guardhouse/card reader.

23. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

General Notes:

24. The width of all existing off-street sewer easements shall be widened to meet current city standards.

25. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.

26. All connections to the sewer shall be at manholes only.

27. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the final plat.

28. Required landscaping shall not be placed on sewer or drainage easements.

City/County Fire Division:

- All design and construction shall comply with the 2021 edition of the International Fire Code (as locally amended) and referenced standards.
- Fire apparatus access shall comply with section 503. Where security gates are installed that affect required fire apparatus access roads, they shall comply with section 503.6 (as amended).
- Fire protection water supplies (including fire hydrants) shall comply with section 507.
- Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternate methods of protection are provided.
- IFC 510 In-building two-way emergency responder communication coverage shall be provided in all new and existing buildings. Buildings and structures that cannot support the required level of coverage shall be equipped with systems and components to enhance signals and achieve the required level of communication coverage.
- A detailed plans review will be conducted by the Memphis Fire Prevention Bureau upon receipt of complete construction documents. Plans shall be submitted to the Shelby County Office of Code Enforcement.

City Real Estate: No comments received.

City/County Health Department: No comments received.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

Office of Sustainability and Resilience:

General Comments & Analysis:

Located in Zone 1 of the Resilience Zone Framework:

Zone 1 areas have the lowest level of development risk and conflict. These areas avoid high risk disaster zones, such as floodplains, and they also do not conflict with sensitive ecological areas. These areas are the most straightforward for development, and development would have the lowest impact on regional resilience. Consider incorporating the protection of ecological assets while balancing the promotion of low-impact site design and compact development typologies in appropriate areas.

The parcel for which the Applicant would like to create a planned development is currently zoned Conservation Agriculture. The types, area, and intensity of land uses in this district are designed to encourage and protect agricultural uses and the conservation of undeveloped areas.

The proposed Outline Plan does show increased impervious surfaces on the lot including one building and a surrounding parking lot.

The submitted Outline Plan and existing condition maps use aerial imagery taken in 2021. These images show a highly vegetated, undeveloped parcel. Recent aerial imagery and Google Street View images from June 2022 show that all trees and leafy vegetation on the parcel have been removed. Such tree removal, if completed without filing a Notice of Intent, would be in violation of the Unified Development Code. In addition, the Applicant submitted proposed conditions stating that landscaping and existing trees to be preserved are indicated on the Outline Plan. The Outline Plan only shows the minimum buffers around the outside boundaries of the planned development.

Consistent with the Mid-South Regional Resilience Master Plan best practices: Yes

This planned development request is generally consistent with the Mid-South Regional Resilience Master Plan. The parcel is not located in an area with a high risk for flooding or ecological damage. The proposed land uses are unlikely to have a negative impact on the surrounding environment.

While the Outline Plan is generally consistent, Staff remains concerned regarding the removal of the tree canopy on the site and lack of proposed landscaping conditions. Increasing the impervious area and reducing vegetative cover increases stormwater runoff quantity and velocity. Trees reduce stormwater runoff, improve air quality, improve ecological health, and help reduce the surface temperature in their immediate vicinity (Section 5.7 Trees).

Consistent with the Memphis Area Climate Action Plan best practices: No

The proposed planned development is generally not consistent with the Memphis Area Climate Action Plan due to the recent tree removal and lack of conditions addressing tree replacement and plantings in the new development. The Climate Action Plan calls for increasing the urban tree canopy from 37% coverage to 60% coverage countywide by 2050 (Priority Action E.7).

Recommendations: Staff recommends the following condition:

- Prior to final site plan approval, the Applicant shall meet or exceed the tree replacement requirements in UDC Section 6.1 Tree Removal.

As landscaping planning moves forward on this planned development, efforts should be made to ensure that the species of trees represented in the tree canopy is diverse and well-maintained. In addition, Staff urges the developer to use Low Impact Development (LID) techniques for managing stormwater runoff, such as using permeable pavers for parking spaces and designing stormwater to flow into landscaped areas.

Office of Comprehensive Planning:

Comprehensive Planning Review of Memphis 3.0 Consistency

This summary is being produced in response to the following application to support the Land Use and Development Services department in their recommendation: LUCB PD 22-21: Airport Adjacent

Site Address/Location: 4747 Getwell Road

Overlay District/Historic District/Flood Zone: Not located in an overlay district, historic district, or flood zone.

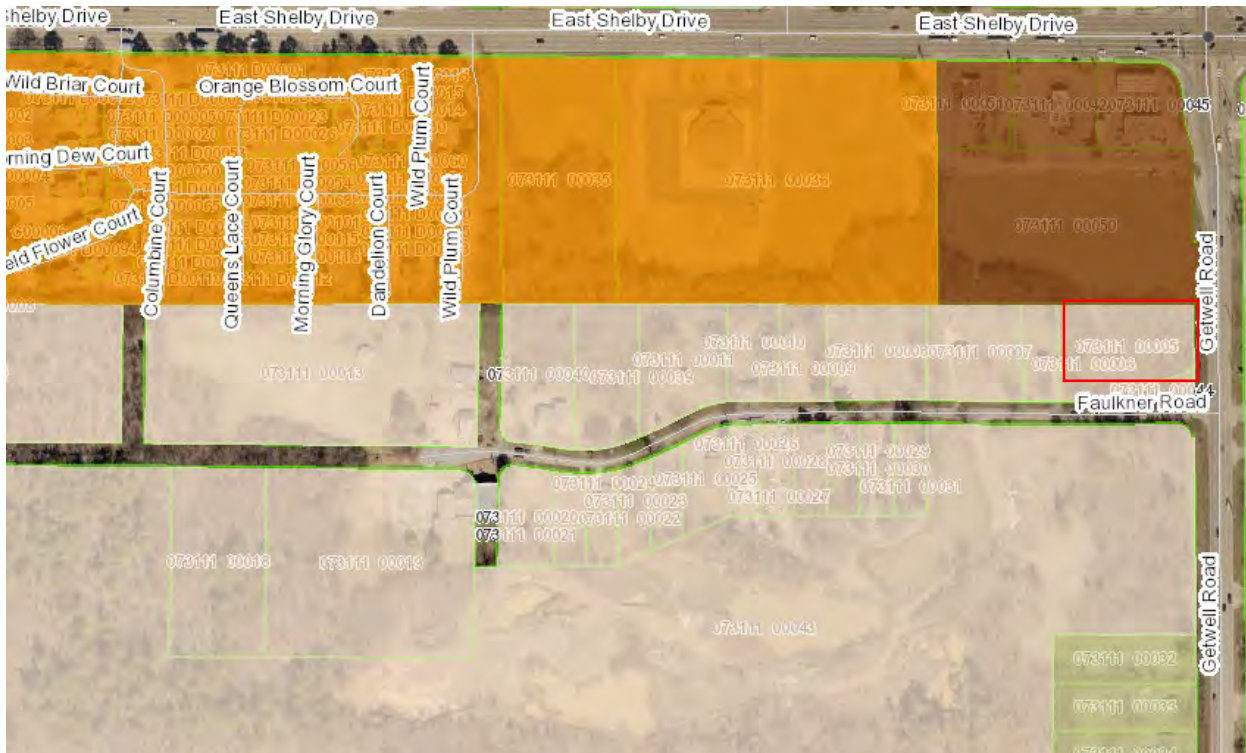
Future Land Use Designation: Primarily Single-Unit Neighborhood (NS)

Street Type: N/A

The applicant is requesting a planned development to allow CMU-1 uses on the parcel. The applicant intends to develop a retail/restaurant use on the parcel.

The following information about the land use designation can be found on pages 76 – 122:

1. Future Land Use Planning Map



Red polygon indicates the application site on the Future Land Use Map.

2. Land Use Description/Intent

Primarily Single-Unit Neighborhood (NS) are residential neighborhoods consisting primarily of single-unit houses that are a Community Anchor. Graphic portrayal of NS is to the right.



not near

“NS” Form & Location Characteristics

Primarily detached, House scale buildings, Primarily residential, 1 – 3 stories; Beyond ½ mile from a Community Anchor

“NS” Zoning Notes

Generally compatible with the following zone districts: R-E, R-15, R-10, R-8, R-6 in accordance with Form and characteristics listed above.

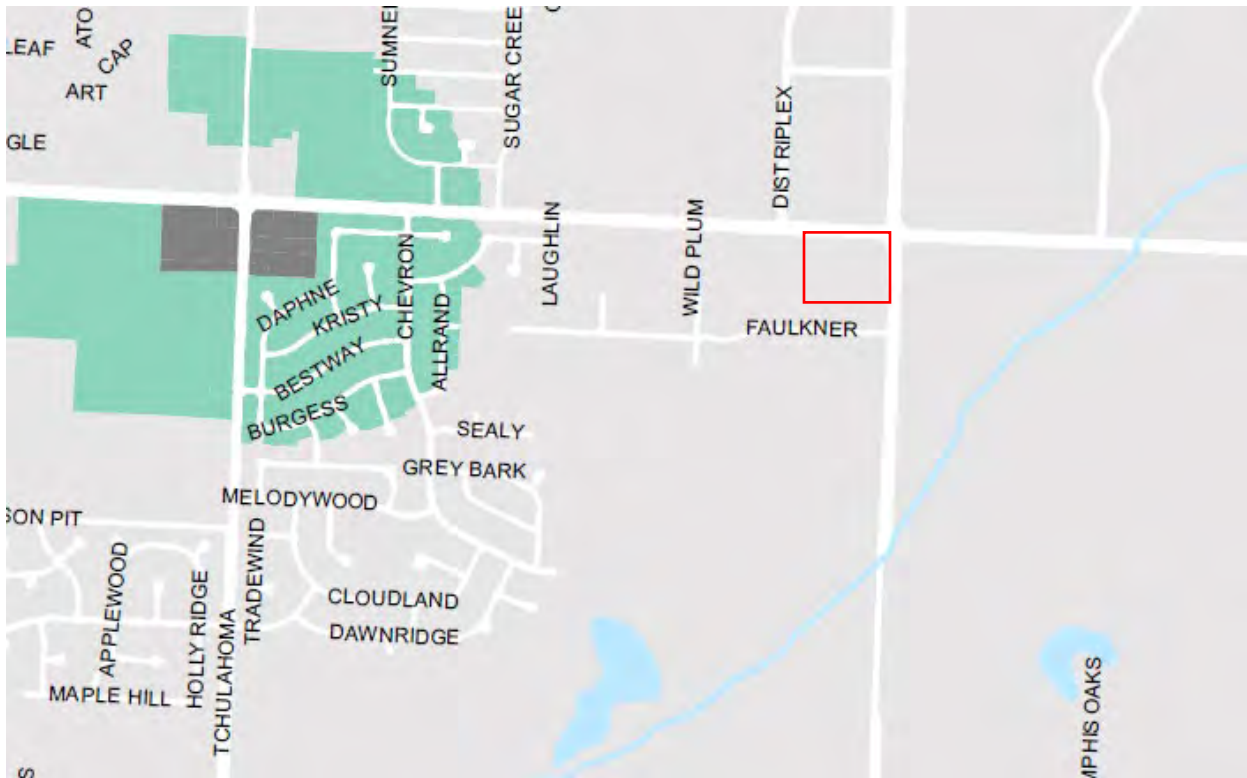
Existing, Adjacent Land Use and Zoning

Existing Land Use and Zoning: Vacant, Conservation Agriculture

Adjacent Land Use and Zoning: Vacant, Commercial, CMU-3, RU-3

Overall Compatibility: *This requested use is not compatible with the land use description/intent, form and location characteristics, zoning notes, and existing land use and zoning. However, the requested use is consistent with adjacent land use and zoning.*

Degree of Change Map



Red polygon denotes the proposed site on the Degree of Change Map. There is no Degree of Change.

3. Degree of Change Description

N/A

4. Objectives/Actions Consistent with Goal 1, Complete, Cohesive, Communities

N/A

5. Pertinent Sections of Memphis 3.0 that Address Land Use Recommendations

N/A

Consistency Analysis Summary

The applicant is requesting a planned development to allow CMU-1 uses on the parcel. The applicant intends to develop a retail/restaurant use on the parcel.

This requested use is not compatible with the land use description/intent, form and location characteristics, zoning notes, and existing land use and zoning. However, the requested use is consistent with adjacent land use and zoning.

While, the planned development is not compatible with the future land use, it is consistent with adjacent land use and zoning. Additionally, it will bring infill development to a vacant parcel. Therefore, the request is consistent.

Based on the information provided, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Melanie Batke Olejarczyk, Comprehensive Planning.

APPLICATION



City Hall – 125 N. Main Street, Suite 468 – Memphis, Tennessee 38103 – (901) 636-6619

LAND USE CONTROL BOARD PLANNED DEVELOPMENT APPLICATION
TO FILE ONLINE USE THE [DEVELOP 901 CITIZEN PORTAL](#)

Date: 12/08/2022 Previous Case/Docket #: _____

PLEASE TYPE OR PRINT

Property Owner of Record: Willie Smith Sr. Phone #: 901-292-1147

Mailing Address: 1852 Brierbrook Rd City/State: Germantown, TN Zip: 38138

Property Owner Email Address: smith9181@bellsouth.net

Applicant: Same Phone #: _____

Mailing Address: _____ City/State: _____ Zip: _____

Applicant Email Address: _____

Representative: Brenda Solomito Basar, Solomito Land Planning Phone #: 901-569-0310

Mailing Address: 1779 Kirby Parkway #1-323 City/State: Memphis, TN Zip: 38138

Representative Email Address: brenda@solomitolandplanning.com

Architect/Engineer/Surveyor: Mark Underwood, Property Solutions Phone #: 901-230-5867

Mailing Address: 784 Dean's Creek Drive City/State: Collierville, TN Zip: 38017

Architect/Engineer/Surveyor Email Address: underwoodm@earthlink.net

PREMISES LOCATION (Describe by street address & directional location description, e.g. 200 Johnson Street, North side of Johnson Street, 100 feet east of Brown Street): 4747 Getwell Rd, East of Getwell, North of Faulkner Road

Parcel ID: 073111 00005

Project Name: _____

Project Description: Planned development to allow CMU-1 Uses

Did you have a pre-application meeting with the Division of Planning and Development (DPD)?

Planner: _____ Date of Meeting: _____

Type of Planned Development (PD) (check one)? New PD Amendment to Existing PD

Is the development located within the Medical Overlay District or Uptown Special Purpose District (Note these areas do not permit new planned developments)? No (yes or no)

If this development is located in unincorporated Shelby County, is the tract at least three acres (Note a tract of less than three acres is not eligible for a planned development in unincorporated Shelby County)? _____ (yes, no, or n/a)

	Area A	Area B	Area C
Acres:	<u>1.247</u>	_____	_____
Existing Use of Property:	<u>Vacant Land</u>	_____	_____
Requested Use of Property:	<u>CMU-1</u>	_____	_____

Is this application in response to a citation, stop work order, or zoning letter? No (yes or no)

If yes, please provide a copy of the citation, stop work order, and/or zoning letter along with any other relevant information: _____

APPROVAL CRITERIA (UDC Section 9.6.9)

No planned development shall be approved unless the following findings are made concerning the application:

A) The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare: _____

B) The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations: _____

C) The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services: _____

LETTER OF INTENT

December 8, 2022

Mr. Brett Ragsdale, AIA
Zoning Administrator
Division of Planning and Development
125 N. Main, Ste. 468
Memphis, TN 38103

Re: Application for Planned Development
4747 Getwell Rd.

Dear Brett:

We are pleased to submit an application for Planned Development on behalf of the property owner, Mr. Willie Smith. The property is located at the northwest corner of Getwell Road and Faulkner Road just south of East Shelby Drive. The property contains 1.247 acres and is currently zoned Conservation Agriculture (CA). Research of historical aerial photographs indicate the property has never been developed.

The property to the north is zoned CMU-3 and was approved for a Special Use Permit in 2018 (SUP 2018-011). Properties to the east are zoned Employment (EMP) and properties to the south and west are zoned Conservation Agriculture (CA). The small triangle property at the corner is not included in the application since ownership is unclear.

The purpose of this application is to request a Planned Development with limited CMU-1 uses. The approval of this request will provide the neighborhood with neighborhood services. As a part of our research, we consulted with the DPD Comprehensive Planning department and while the future land use for this property is Primarily Single-Unit Neighborhood (NS), CMU-1 uses would be considered.

As a result, this proposal provides for a couple of possible layouts for the property so as to not negatively impact the surrounding single family residential.

APPROVAL CRITERIA (UDC Section 9.6.9)

- A) The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare:

The existing character of the neighborhood is a mixture of single family residential, warehousing and distribution. The addition of a small neighborhood support center will provide a land use transition and a needed resource for the neighborhood. This proposal will not adversely impact public health, safety, and general welfare.

- B) The project will be constructed, arranged, and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations:

By providing a limited number of CMU-1 uses and designing the site so as to not negatively impact the surrounding properties, this site will be developed in a compatible manner and ample landscaping and buffering.

SOLOMITO

LAND PLANNING

brenda@solomitolandplanning.com | 901.755.7495

December 8, 2022
Page 2

- C) The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water, and sewers; or that the applicant will provide adequately for such services:
All public services are readily available at the site.
- D) The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic, or historic importance:
There are no significant natural, scenic, or historic features or characteristics on this site.
- E) The project complies with all additional standards imposed on it by any particular provisions authorizing such use:
This proposal complies with all applicable regulations
- F) The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties:
This proposal complies with other plans to be considered.

GENERAL PROVISIONS (UDC Section 4.10.3)

- A) The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County:
When developed, this property will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans.
- B) An approved water supply, community wastewater treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development:
Adequate public facilities and services exist for this site.
- C) The location and arrangement of the structures, parking and loading areas, walks, lighting, and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for such facilities shall be landscaped or otherwise improved except where natural features are such as to justify preservation:
As illustrated on the attached site plans, the site has options for the arrangement of parking, access, and other site features. Landscaping will be provided in excess of what is required.
- D) Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest:
Because of the irregular shape of the property, setbacks, building locations and parking have been provided to best fit the site.

December 8, 2022
Page 3

E) Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements:

Duly Noted

F) Lots of record are created with the recording of a planned development final plan:

Yes

Thank you for your time and consideration in this matter. Please do not hesitate to call with any questions and/or comments.

Sincerely,

SOLOMITO LAND PLANNING



Brenda Solomito Basar
Land Planner

SIGN AFFIDAVIT

Wells Sisk

AFFIDAVIT

Shelby County
State of Tennessee

I *Shea Bon*, being duly sworn deposes and says that at *7:05* am, pm on the *29th* day of *Dece* he/she posted a Public Notice Sign(s) pertaining to case number *PD 2022-021* at (address) *4747 Crockett*, providing notice of a Public Hearing before the Land Use Control Board *✓*, Memphis City Council *✓*, Shelby County Board of Commissioners for consideration of a proposed land use action (Planned Development _____, Use Variance _____, Zoning District map Amendment _____), a photograph of said sign(s) being attached hereon and a copy of the signs purchase receipt or rental contract attaches hereto.

Shea Bon *12-31-22*
Owner, Applicant or Representative Date

Subscribed and sworn to before me this *31st* day of *Dece*, 200*7*.

Notary Public



My Commission Expires: _____

LETTERS RECEIVED

No letters received at the time of completion of this report.



Record Summary for Planned Development

Record Detail Information

Record Type: Planned Development

Record Status: Assignment

Opened Date: December 7, 2022

Record Number: PD 2022-021

Expiration Date:

Record Name: Smith Family Planned Development

Description of Work: Request for a Planned Development to permit limited CMU-1 uses.

Parent Record Number:

Address:

4747 GETWELL RD, MEMPHIS 38118

Owner Information

Primary Owner Name

Y SMITH WILLIE SR

Owner Address

1852 BRIERBROOK RD, GERMANTOWN, TN 38138

Owner Phone

Parcel Information

073111 00005

Data Fields

PREAPPLICATION MEETING

Name of DPD Planner

Jeffrey Penzes

Date of Meeting

09/22/2022

GENERAL PROJECT INFORMATION

Planned Development Type

New Planned Development (PD)

Previous Docket / Case Number

1947-057 - CO

GENERAL PROJECT INFORMATION

Medical Overlay / Uptown No
If this development is located in unincorporated N/A
Shelby County, is the tract at least three acres?
(Note a tract of less than three acres is not
eligible for a planned development in
unincorporated Shelby County)
Is this application in response to a citation, stop No
work order, or zoning letter
If yes, please provide a copy of the citation, stop -
work order, and/or zoning letter along with any
other relevant information

APPROVAL CRITERIA

UDC Sub-Section 9.6.9A See Attached
UDC Sub-Section 9.6.9B See Attached
UDC Sub-Section 9.6.9C See Attached
UDC Sub-Section 9.6.9D See Attached
UDC Sub-Section 9.6.9E See Attached
UDC Sub-Section 9.6.9F See Attached

GENERAL PROVISIONS

UDC Sub-Section 4.10.3A See Attached
B) An approved water supply, community waste See Attached
water treatment and disposal, and storm water
drainage facilities that are adequate to serve the
proposed development have been or will be
provided concurrent with the development
C) The location and arrangement of the See Attached
structures, parking and loading areas, walks,
lighting and other service facilities shall be
compatible with the surrounding land uses, and
any part of the proposed development not used
for such facilities shall be landscaped or
otherwise improved except where natural
features are such as to justify preservation
D) Any modification of the district standards that See Attached
would otherwise be applicable to the site are
warranted by the design of the outline plan and
the amenities incorporated therein, and are not
inconsistent with the public interest
E) Homeowners' associations or some other Yes
responsible party shall be required to maintain
any and all common open space and/or common
elements
F) Lots of record are created with the recording Yes
of a planned development final plan

GIS INFORMATION

Central Business Improvement District No
Case Layer BOA1947-057-CO

GIS INFORMATION

Class	R
Downtown Fire District	No
Historic District	-
Land Use	VACANT
Municipality	MEMPHIS
Overlay/Special Purpose District	-
Zoning	CA
State Route	1
Lot	-
Subdivision	-
Planned Development District	-
Wellhead Protection Overlay District	-

Contact Information

Name	Contact Type
SMITH WILLIE SR	APPLICANT

Address

Phone

(901)292-1147

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1434570	Credit Card Use Fee (.026 x fee)	1	0.00	INVOICED	0.00	12/07/2022
1434651	Planned Development - 5 acres or less	1	1,500.00	INVOICED	0.00	12/08/2022

Total Fee Invoiced: \$1,500.00

Total Balance: \$0.00

Payment Information

Payment Amount	Method of Payment
\$1,500.00	Check



**MEMPHIS AND
SHELBY COUNTY** **DIVISION OF PLANNING
AND DEVELOPMENT**

City Hall – 125 N. Main Street, Suite 468 – Memphis, Tennessee 38103 – (901) 636-6619

**LAND USE CONTROL BOARD PLANNED DEVELOPMENT APPLICATION
TO FILE ONLINE USE THE [DEVELOP 901 CITIZEN PORTAL](#)**

Date: 12/08/2022

Previous Case/Docket #: _____

PLEASE TYPE OR PRINT

Property Owner of Record: Willie Smith Sr. Phone #: 901-292-1147

Mailing Address: 1852 Brierbrook Rd City/State: Germantown, TN Zip: 38138

Property Owner Email Address: smith9181@bellsouth.net

Applicant: Same Phone #: _____

Mailing Address: _____ City/State: _____ Zip: _____

Applicant Email Address: _____

Representative: Brenda Solomito Basar, Solomito Land Planning Phone #: 901-569-0310

Mailing Address: 1779 Kirby Parkway #1-323 City/State: Memphis, TN Zip: 38138

Representative Email Address: brenda@solomitolandplanning.com

Architect/Engineer/Surveyor: Mark Underwood, Property Solutions Phone #: 901-230-5867

Mailing Address: 784 Dean's Creek Drive City/State: Collierville, TN Zip: 38017

Architect/Engineer/Surveyor Email Address: underwoodm@earthlink.net

PREMISES LOCATION (Describe by street address & directional location description, e.g. 200 Johnson Street, North side of Johnson Street, 100 feet east of Brown Street): 4747 Getwell Rd, East of Getwell, North of Faulkner Road

Parcel ID: 073111 00005

Project Name: _____

Project Description: Planned development to allow CMU-1 Uses

Did you have a pre-application meeting with the Division of Planning and Development (DPD)?

Planner: _____ Date of Meeting: _____

Type of Planned Development (PD) (check one)? New PD Amendment to Existing PD

Is the development located within the Medical Overlay District or Uptown Special Purpose District (Note these areas do not permit new planned developments)? No (yes or no)

If this development is located in unincorporated Shelby County, is the tract at least three acres (Note a tract of less than three acres is not eligible for a planned development in unincorporated Shelby County)? _____ (yes, no, or n/a)

	Area A	Area B	Area C
Acres:	<u>1.247</u>	_____	_____
Existing Use of Property:	<u>Vacant Land</u>	_____	_____
Requested Use of Property:	<u>CMU-1</u>	_____	_____

Is this application in response to a citation, stop work order, or zoning letter? No (yes or no)

If yes, please provide a copy of the citation, stop work order, and/or zoning letter along with any other relevant information: _____

APPROVAL CRITERIA (UDC Section 9.6.9)

No planned development shall be approved unless the following findings are made concerning the application:

A) The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare: _____

B) The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations: _____

C) The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services: _____

D) The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance: _____

E) The project complies with all additional standards imposed on it by any particular provisions authorizing such use:

F) The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties: _____

GENERAL PROVISIONS (UDC Section 4.10.3)

No planned development shall be approved unless the following findings are made concerning the application:

A) The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County: _____

B) An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development:

- C) The location and arrangement of the structures, parking and loading areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for such facilities shall be landscaped or otherwise improved except where natural features are such as to justify preservation: _____

- D) Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest: _____

- E) Homeowners’ associations or some other responsible party shall be required to maintain any and all common open space and/or common elements: _____
- F) Lots of record are created with the recording of a planned development final plan: _____

LAND USE CONTROL BOARD PLANNED DEVELOPMENT APPLICATION GUIDE

To file online use the Develop 901 Citizen Portal: www.aca-prod.accela.com/SHELBYCO/Default

GENERAL INFORMATION

UNIFIED DEVELOPMENT CODE (UDC) REFERENCES FOR PLANNED DEVELOPMENTS:

- a) Planned Development – UDC Chapter 9.6 and Section 9.6.11
- b) Planned Development Amendment – UDC Paragraph 9.6.11E(1)

PRE-APPLICATION MEETING – This is a meeting in which the Division of Planning and Development Land Use and Development Services discusses the procedures, standards, and regulations required of a request in accordance with the Unified Development Code with the applicant(s) and/or their representative(s), see Section 9.3.1 of [Unified Development Code](#) for additional information. To schedule a pre-application meeting please call Land Use and Development Services at (901) 636-6619.

APPLICATION REVIEW PROCESS – [Click here](#) to view a flowchart that explains the review process by application type, as well as the expected review time for each.

NEIGHBORHOOD MEETING – At least ten (10) days, but not more than one hundred twenty (120) days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site, see Section 9.3.2 of the [Unified Development Code](#) for additional information, procedures, standards, and requirements.

APPLICATION DEADLINES – A link to the Applications Deadlines Calendar can be found on the Land Use and Development Services’ [webpage](#).

APPLICATION ASSISTANCE – [Click here](#) to view a list of firms and individuals who frequently provide assistance with the filing of applications with the Division of Planning and Development.

FILING FEE(S) – See the [Fee Schedule](#). Make checks payable to “M/SC Division of Planning and Development”

POSTED NOTICE – Posting sign(s) may be required, refer to Sub-Sections 9.3.4A and 9.3.4C of the [Unified Development Code](#) for specific requirements. If posted notice is required, the sign [affidavit](#) and a photograph of each sign on the subject property are also mandatory. [Download](#) templates of the sign in a PowerPoint document. [Click here](#) for a list of companies that may be able to produce posted notice signs.

REQUIRED DOCUMENTS

As part of the application, the following documents are required to be submitted:

LETTER OF INTENT – A brief narrative statement generally describing the nature, location, and extent of the development and the market it is intended to serve.

OUTLINE PLAN – An outline plan consists of the following documents:

- A. CONCEPT PLAN** – In general, a drawing of the subject property drawn to an engineering scale, showing property boundary lines and dimensions, existing utilities and easements, roadways, rail lines and public rights-of-way, crossing and adjacent to the subject property; the proposed height, dimensions, and arrangements of buildings on the property; the location of points of ingress to and egress (driveways), parking lots and loading areas on the site, any proposed substantial re-grading of the site and any significant topographical or physical features of the site including water courses or ponds; etc.
- B. LANDSCAPE PLAN** – A detailed diagram that includes the specific location and spacing of plant materials. All plant materials shall be identified in a planting schedule chart that indicates the symbol, quantity, common name, botanical name, and minimum size at planting—caliper and height.
- C. PROPOSED OUTLINE PLAN CONDITIONS IN WORD** – The proposed outline plan conditions must be submitted in the Microsoft Word format.

VICINITY MAP – Map showing the subject property (boldly outlined) and all adjacent parcel owners. Refer to Sub-Section 9.3.4A of the [Unified Development Code](#) for specific notification requirements. Note two hardcopy sets of sticky labels must be provided and shall be dropped off at Suite 477 in City Hall, 125 N Main Street, Memphis, TN 38103. [Public Notice Tool User Guide](#).

MAILING LABELS OF NAMES AND ADDRESSES – A complete list of names and mailing addresses, of all property owners shown on the vicinity map, typewritten, and formatted as 1" x 2 5/8" labels (Avery 5160). Additionally, include the application property owner of record, applicant, representative, and/or Architect/Engineer/Surveyor. [Public Notice Tool User Guide](#).

DEED(S) – Most recent deed(s) on file with [Shelby County Register of Deeds](#).

OWNER AFFIDAVIT – [Affidavit of ownership or owner designee](#).

Additional documents may be required prior to approval including, but not limited, to:

ELEVATIONS – Building elevations may be required upon request by the Division of Planning and Development. Factors that will be taken into consideration by the Division of Planning and Development in its determination that building elevations are required are surrounding land uses, frontage requirements, proximity of the requested building(s) to the public right-of-way, conditions, etc.

Whenever a statement of ownership is required by the Memphis and Shelby County Unified Development Code, full disclosure of all legal and equitable interest in the property is required. Memphis and Shelby County Unified Development Code Section 12.3.1.

I, Stellie Smith state that I have read the definition of "Owner" as outlined in the Memphis and Shelby County Unified Development Code Section 12.3.1 and hereby state that (select applicable box):

I am the owner of record as shown on the current tax rolls of the county Assessor of Property; the mortgage holder of record as shown in the mortgage records of the county Register of Deeds; purchaser under a land contract; a mortgagee or vendee in possession; or I have a freehold or lesser estate in the premises

I have charge, care or control of the premises as trustee, agent, executor, administrator, assignee, receiver, guardian or lessee (and have included documentation with this affidavit)

of the property located at 4747 Getwell Rd and further identified by Assessor's Parcel Number 07311 00005, for which an application is being made to the Division of Planning and Development.

Subscribed and sworn to (or affirmed) before me this 19th day of Oct in the year of 2020

Amanda P. Hood
Signature of Notary Public



December 8, 2022

Mr. Brett Ragsdale, AIA
Zoning Administrator
Division of Planning and Development
125 N. Main, Ste. 468
Memphis, TN 38103

Re: Application for Planned Development
4747 Getwell Rd.

Dear Brett:

We are pleased to submit an application for Planned Development on behalf of the property owner, Mr. Willie Smith. The property is located at the northwest corner of Getwell Road and Faulkner Road just south of East Shelby Drive. The property contains 1.247 acres and is currently zoned Conservation Agriculture (CA). Research of historical aerial photographs indicate the property has never been developed.

The property to the north is zoned CMU-3 and was approved for a Special Use Permit in 2018 (SUP 2018-011). Properties to the east are zoned Employment (EMP) and properties to the south and west are zoned Conservation Agriculture (CA). The small triangle property at the corner is not included in the application since ownership is unclear.

The purpose of this application is to request a Planned Development with limited CMU-1 uses. The approval of this request will provide the neighborhood with neighborhood services. As a part of our research, we consulted with the DPD Comprehensive Planning department and while the future land use for this property is Primarily Single-Unit Neighborhood (NS), CMU-1 uses would be considered.

As a result, this proposal provides for a couple of possible layouts for the property so as to not negatively impact the surrounding single family residential.

APPROVAL CRITERIA (UDC Section 9.6.9)

- A) The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare:

The existing character of the neighborhood is a mixture of single family residential, warehousing and distribution. The addition of a small neighborhood support center will provide a land use transition and a needed resource for the neighborhood. This proposal will not adversely impact public health, safety, and general welfare.

- B) The project will be constructed, arranged, and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations:

By providing a limited number of CMU-1 uses and designing the site so as to not negatively impact the surrounding properties, this site will be developed in a compatible manner and ample landscaping and buffering.

SOLOMITO

LAND PLANNING

brenda@solomitolandplanning.com | 901.755.7495

- C) The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water, and sewers; or that the applicant will provide adequately for such services:

All public services are readily available at the site.

- D) The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic, or historic importance:

There are no significant natural, scenic, or historic features or characteristics on this site.

- E) The project complies with all additional standards imposed on it by any particular provisions authorizing such use:

This proposal complies with all applicable regulations

- F) The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties:

This proposal complies with other plans to be considered.

GENERAL PROVISIONS (UDC Section 4.10.3)

- A) The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County:

When developed, this property will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans.

- B) An approved water supply, community wastewater treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development:

Adequate public facilities and services exist for this site.

- C) The location and arrangement of the structures, parking and loading areas, walks, lighting, and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for such facilities shall be landscaped or otherwise improved except where natural features are such as to justify preservation:

As illustrated on the attached site plans, the site has options for the arrangement of parking, access, and other site features. Landscaping will be provided in excess of what is required.

- D) Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest:

Because of the irregular shape of the property, setbacks, building locations and parking have been provided to best fit the site.

E) Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements:

Duly Noted

F) Lots of record are created with the recording of a planned development final plan:

Yes

Thank you for your time and consideration in this matter. Please do not hesitate to call with any questions and/or comments.

Sincerely,

SOLOMITO LAND PLANNING



Brenda Solomito Basar
Land Planner



NORTH



SCALE: 1"=50'



December 5, 2022
Concept Plan
4747 Getwell Road
MEMPHIS, TENNESSEE

PREPARED BY:

SOLOMITO

LAND PLANNING
1779 KIRBY PKWY., #1-323 MEMPHIS TN 38138 (901) 755-7495

DWG. NAME: 22108-Outline.dwg



NORTH



SCALE: 1"=50'



December 2, 2022
Concept Plan
4747 Getwell Road
MEMPHIS, TENNESSEE

PREPARED BY:

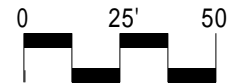
SOLOMITO

LAND PLANNING
1779 KIRBY PKWY., #1-323 MEMPHIS TN 38138 (901) 755-7495

DWG. NAME: 22108-Outline.dwg



NORTH



SCALE: 1"=50'



±1.247 Acres

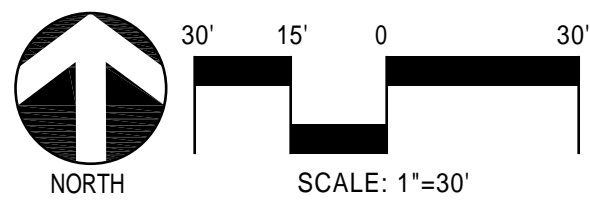
FAULKNER ROAD
(50' R.O.W.)

GETWELL ROAD
(R.O.W. VARIES)

December 2, 2022
Existing Conditions
4747 Getwell Road
MEMPHIS, TENNESSEE

PREPARED BY:
SOLOMITO
LAND PLANNING
1779 KIRBY PKWY., #1-323 MEMPHIS TN 38138 (901) 755-7495

DWG. NAME: 22108-Outline.dwg



NUFISH LLC
INST.: 21149260
4.298 ACRES

MONTE C. BUSH
INST.: 21046366
0.344 ACRES

EXIST. BUILDING



JOHN S. CLARK
INST.: HC-8901
0.127 ACRES

FAULKNER ROAD
(50' R.O.W.)

BURDETTE UNITED
METHODIST CHURCH
INST.: FT-6567
39.668 ACRES

GETWELL ROAD
(R.O.W. VARIES)

SS GETWELL LLC
INST.: 16048595
4.00 ACRES

EXIST. BUILDING

EXIST. BUILDING

GEORGE S. SIMPSON SR.
INST.: 15084252
4.742 ACRES



VICINITY MAP

NOTES:

- EXISTING ZONING: CA
- FLOODWAY OR FLOODPLAIN
THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA PER FLOOD INSURANCE RATE MAP, MAP NO. 47157CO 440 F AND MAP NO. 47157CO 445 F, EFFECTIVE DATE: SEPTEMBER 28, 2007. ELEVATION-333
- PREPARED FROM INSTRUMENT NUMBER HX-9879 AND DATED NOVEMBER 19, 1998.

CONCEPT PLAN
CASE:
OUTLINE PLAN
4747 GETWELL ROAD
MEMPHIS, TENNESSEE

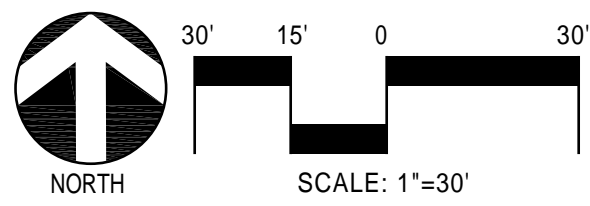
TOTAL AREA: ±1.247 Acres
WARD 073, BLOCK 111, PARCEL 00005
No. OF LOTS: 1
100 YEAR FLOOD ELEV.:232

OWNERS/DEVELOPER:
WILLIE SMITH SR.
1852 Brierbrook Road
Germantown, TN 38138

PREPARED BY:

SOLOMITO

LAND PLANNING
1779 KIRBY PKWY., #1-323 MEMPHIS TN 38138 (901) 755-7495
DATE: 12-5-2022 JOB: 22108 SHEET 2 OF 3



NUFISH LLC
INST.: 21149260
4.298 ACRES

MONTE C. BUSH
INST.: 21046366
0.344 ACRES

EXIST. BUILDING



RETAIL-RESTAURANT
9,800 s.f.
55 Parking Spaces

JOHN S. CLARK
INST.: HC-8901
0.127 ACRES

FAULKNER ROAD
(50' R.O.W.)

GETWELL ROAD
(R.O.W. VARIES)

SS GETWELL LLC
INST.: 16048595
4.00 ACRES

EXIST. BUILDING

EXIST. BUILDING

GEORGE S. SIMPSON SR.
INST.: 15084252
4.742 ACRES

BURDETTE UNITED
METHODIST CHURCH
INST.: FT-6567
39.668 ACRES



VICINITY MAP

NOTES:

- EXISTING ZONING: CA
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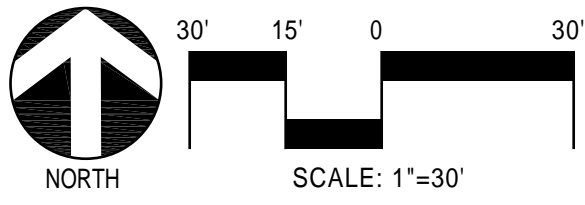
CONCEPT PLAN
CASE:
OUTLINE PLAN
4747 GETWELL ROAD
MEMPHIS, TENNESSEE

TOTAL AREA: ±1.247 Acres
WARD 073, BLOCK 111, PARCEL 00005
No. OF LOTS: 1
100 YEAR FLOOD ELEV.:232

OWNERS/DEVELOPER:
WILLIE SMITH SR.
1852 Brierbrook Road
Germantown, TN 38138

PREPARED BY:

SOLOMITO
LAND PLANNING
1779 KIRBY PKWY., #1-323 MEMPHIS TN 38138 (901) 755-7495
DATE: 12-2-2022 JOB: 22108 SHEET 2 OF 3



NUFISH LLC
INST.: 21149260
4.298 ACRES

MONTE C. BUSH
INST.: 21046366
0.344 ACRES

EXIST. BUILDING

±1.247 Acres

JOHN S. CLARK
INST.: HC-8901
0.127 ACRES

SS GETWELL LLC
INST.: 16048595
4.00 ACRES

EXIST. BUILDING

EXIST. BUILDING

GEORGE S. SIMPSON SR.
INST.: 15084252
4.742 ACRES

FAULKNER ROAD
(50' R.O.W.)

GETWELL ROAD
(R.O.W. VARIES)

BURDETTE UNITED
METHODIST CHURCH
INST.: FT-6567
39.668 ACRES

CASE:
OUTLINE PLAN
4747 GETWELL
ROAD
MEMPHIS, TENNESSEE

TOTAL AREA: ±1.247 Acres
WARD 073, BLOCK 111, PARCEL 00005
No. OF LOTS: 1
100 YEAR FLOOD ELEV.:232

OWNERS/DEVELOPER:
WILLIE SMITH SR.
1852 Brierbrook Road
Germantown, TN 38138

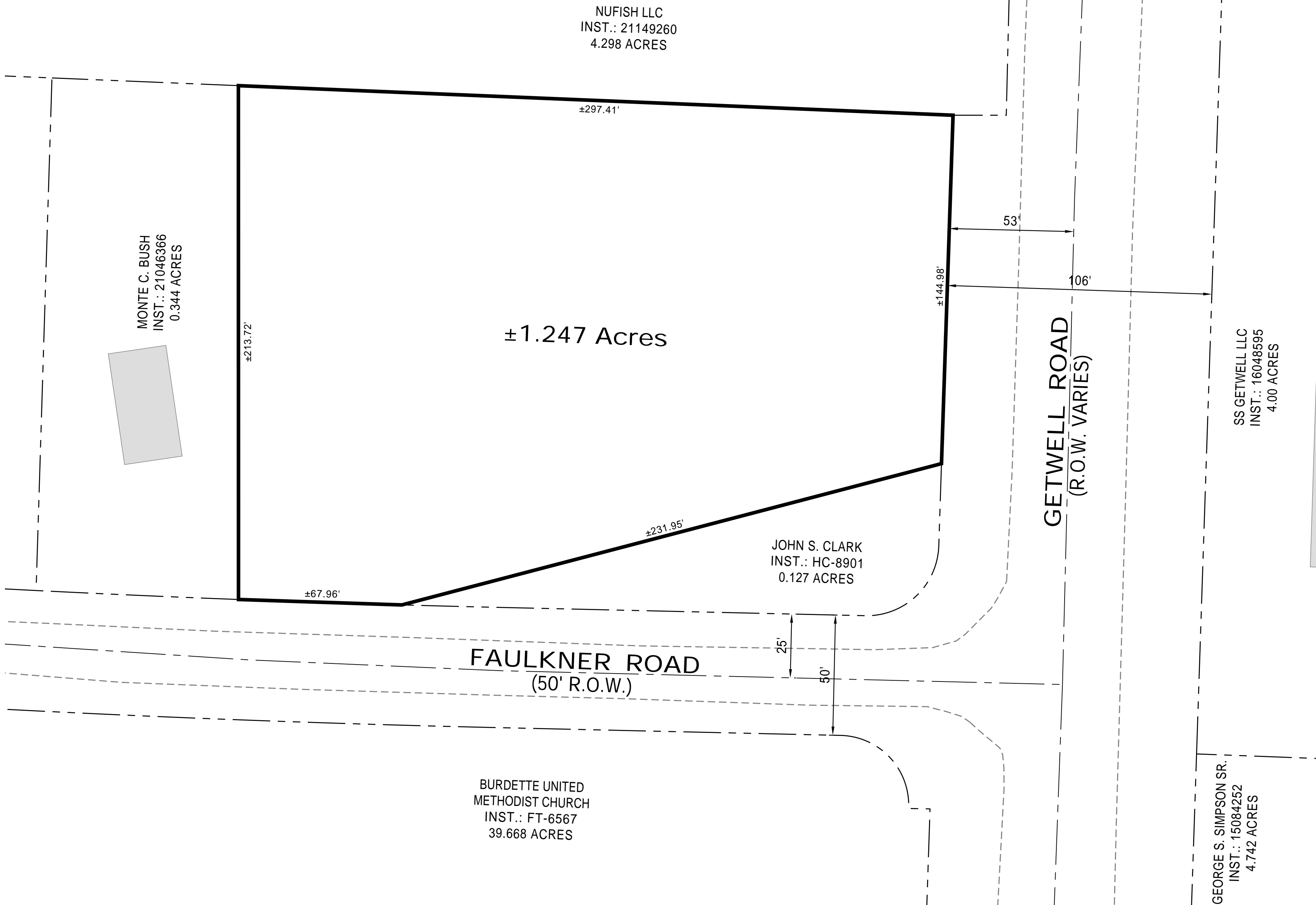
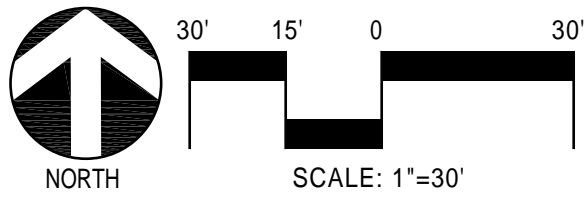
PREPARED BY:

SOLOMITO

LAND PLANNING
1779 KIRBY PKWY., #1-323 MEMPHIS TN 38138 (901) 755-7495
DATE: 12-2-2022 JOB: 22108 SHEET 1 OF 3

NOTES:

- EXISTING ZONING: CA
- FLOODWAY OR FLOODPLAIN
THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA PER FLOOD INSURANCE RATE MAP, MAP NO. 47157CO 440 F AND MAP NO. 47157CO 445 F, EFFECTIVE DATE: SEPTEMBER 28, 2007. ELEVATION-333
- PREPARED FROM INSTRUMENT NUMBER HX-9879 AND DATED NOVEMBER 19, 1998.



CASE:
PLOT PLAN
4747 GETWELL
ROAD
MEMPHIS, TENNESSEE

TOTAL AREA: ±1.247 Acres
 WARD 073, BLOCK 111, PARCEL 00005
 No. OF LOTS: 1
 100 YEAR FLOOD ELEV.:232

OWNERS/DEVELOPER:
 WILLIE SMITH SR.
 1852 Brierbrook Road
 Germantown, TN 38138

PREPARED BY:




1779 KIRBY PKWY., #1-323 MEMPHIS TN 38138 (901) 755-7495
 DATE: 12-2-2022 JOB: 22108 SHEET 1 OF 1

NOTES:

1. EXISTING ZONING: CA
2. FLOODWAY OR FLOODPLAIN
 THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA PER FLOOD INSURANCE RATE MAP, MAP NO. 47157CO 440 F AND MAP NO. 47157CO 445 F, EFFECTIVE DATE: SEPTEMBER 28, 2007. ELEVATION-333
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- Legend**
- polygonLayer**
 - Override 1
 - Override 2
 - polygonLayer**
 - Override 1
 - Roads
 - Board Of Adjustment Cases - Label
 - Board Of Adjustment Cases
 - Planned Developments - Label
 - Planned Developments
 - Special Use Permits - Label
 - Special Use Permits
 - SUP Use Variances - Label
 - SUP Use Variances
 - Street and Alley Closure - Label
 - Street and Alley Closure
 - Zoning Cases - Label
 - Zoning Cases
 - Shelby County Zoning
 - Arlington Zoning
 - Bartlett Zoning
 - Collierville Zoning
 - Germantown Zoning
 - Lakeland Zoning
 - Millington Zoning
 - Parcels


 Map prepared through Shelby County Government's online mapping Portal on 12/6/2022

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073111 00051 - MEMPHIS FOODS LLC
073111 00050 - NUFISH LLC
073111 00045 - MOHAMED AMIN & AIDA SAMUEL
073112 00003 - BROTHERS REAL ESTATE INC
073112 00022 - SS GETWELL LLC
073111 00044 - CLARK JOHN S
073111 00030 - HAMILTON JACOB
073111 00031 - PAYNE HERMAN III AND KORY K PAYNE
073111 00005 - SMITH WILLIE SR
073102 00120 - ALHALAWANI RADEH
073102 00114 - EAST SHELBY DRIVE 3796 CENTER LLC
073101 00102C - SOMIT LLC
073111 00036 - CENTER CHAPEL BAPTIST CHURCH (TR)
073111 00042 - FRAYSER QUALITY LLC
073112 00004C - MCDONALDS CORPORATION
073112 00012 - CITY OF MEMPHIS
073111 00010 - PHILLIPS MARY W
073111 00009 - DAVIS JOSEPHINE W AND HERBERT WATKINS
073111 00008 - BRADLEY JESSIE & DIEDRA
073111 00007 - MURDOCK ROSCOE & AUDREY S
073111 00043 - BURDETTE UNITED METHODIST CHURCH (40%)
073111 00027 - HAMILTON JACOB
073111 00028 - PAYNE SADIE M AND LORA PAYNE
073111 00029 - PAYNE SADIE M AND LORA PAYNE ODOM
073112 00021 - SIMPSOM GEORGE W SR

073111 00032 - COLEMAN WILLIE L & CHARLOTTE

073112 00014 - B & B REALTY LLC

073111 00033 - CARTER JULIA

073111 00006 - BUSH MONTE C

MEMPHIS FOODS LLC
139 SOUTHWEST DR #
JONESBORO AR 72401

EAST SHELBY DRIVE 3796 CENTER LLC
P O BOX 1565 #
LAWRENCEVILLE GA 30046

BURDETTE UNITED METHODIST CHURCH (40%)
4953 MALONE RD #
MEMPHIS TN 38118

NUFISH LLC
5858 RIDGEWAY CENTER PKWY
MEMPHIS TN 38120

SOMIT LLC
8196 WINDERSVILLE DR #
BARTLETT TN 38133

HAMILTON JACOB
3733 FAULKNER RD #
MEMPHIS TN 38109

MOHAMED AMIN & AIDA SAMUEL
3799 E SHELBY DR #
MEMPHIS TN 38118

CENTER CHAPEL BAPTIST CHURCH (TR)
PO BOX 18483 #
MEMPHIS TN 38181

PAYNE SADIE M AND LORA PAYNE
3725 FAULKNER RD #
MEMPHIS TN 38118

BROTHERS REAL ESTATE INC
3825 E SHELBY DR #
MEMPHIS TN 38118

FRAYSER QUALITY LLC
968 JAMES ST #
SYRACUSE NY 13203

PAYNE SADIE M AND LORA PAYNE ODOM
3725 FAULKNER RD #
MEMPHIS TN 38118

SS GETWELL LLC
PO BOX 800729 #
DALLAS TX 75380

MCDONALDS CORPORATION
5645 MURRAY RD #
MEMPHIS TN 38119

SIMPSON GEORGE W SR
4784 GETWELL RD #
MEMPHIS TN 38118

CLARK JOHN S
1852 BRIERBROOK RD #
GERMANTOWN TN 38138

CITY OF MEMPHIS
125 N MAIN ST #
MEMPHIS TN 38103

COLEMAN WILLIE L & CHARLOTTE
5990 OLD HIGHWAY 64 #
WHITEVILLE TN 38075

HAMILTON JACOB
703 BRAKEBILL AVE #
MEMPHIS TN 38116

PHILLIPS MARY W
3704 FAULKNER RD #
MEMPHIS TN 38118

B & B REALTY LLC
4830 GETWELL RD #
MEMPHIS TN 38118

PAYNE HERMAN III AND KORY K PAYNE
3725 FAULKNER RD #
MEMPHIS TN 38118

DAVIS JOSEPHINE W AND HERBERT WATKINS
1328 ROBIN HILL DR #
NORCROSS GA 30093

CARTER JULIA
4827 GETWELL RD #
MEMPHIS TN 38118

SMITH WILLIE SR
1852 BRIERBROOK RD #
GERMANTOWN TN 38138

BRADLEY JESSIE & DIEDRA
3726 FAULKNER RD #
MEMPHIS TN 38118

BUSH MONTE C
3836 CARAVEL DR
MEMPHIS TN 38118

ALHALAWANI RADEH
3770 SHELBY DR #
MEMPHIS TN 38118

MURDOCK ROSCOE & AUDREY S
5041 WHITWORTH #
MEMPHIS TN 38116

For Current Resident
3745 SHELBY DR #
Memphis, TN 38118

For Current Resident
3796 E SHELBY DR #
Memphis, TN 38118

For Current Resident
GETWELL RD #
Memphis, TN 38118

For Current Resident
GETWELL RD #
Memphis, TN 38118

For Current Resident
3810 E SHELBY DR #
Memphis, TN 38118

For Current Resident
3711 FAULKNER #
Memphis, TN 38118

For Current Resident
3799 E SHELBY DR #
Memphis, TN 38118

For Current Resident
3715 E SHELBY DR #
Memphis, TN 38118

For Current Resident
3719 FAULKNER RD #
Memphis, TN 38118

For Current Resident
3825 E SHELBY DR #
Memphis, TN 38118

For Current Resident
3795 E SHELBY DR #
Memphis, TN 38118

For Current Resident
3725 FAULKNER RD #
Memphis, TN 38118

For Current Resident
4740 GETWELL RD #
Memphis, TN 38118

For Current Resident
3845 E SHELBY DR #
Memphis, TN 38118

For Current Resident
4784 GETWELL RD #
Memphis, TN 38118

For Current Resident
GETWELL #
Memphis, TN 38118

For Current Resident
3843 E SHELBY DR #
Memphis, TN 38118

For Current Resident
4817 GETWELL RD #
Memphis, TN 38118

For Current Resident
3733 FAULKNER RD #
Memphis, TN 38118

For Current Resident
3704 FAULKNER RD #
Memphis, TN 38118

For Current Resident
4830 GETWELL RD #
Memphis, TN 38118

For Current Resident
3739 FAULKNER RD #
Memphis, TN 38118

For Current Resident
FAULKNER #
Memphis, TN 38118

For Current Resident
4827 GETWELL RD #
Memphis, TN 38118

For Current Resident
4747 GETWELL RD #
Memphis, TN 38118

For Current Resident
3726 FAULKNER RD #
Memphis, TN 38118

For Current Resident
3770 FAULKNER RD #
Memphis, TN 38118

For Current Resident
3770 E SHELBY DR #
Memphis, TN 38118

For Current Resident
3762 FAULKNER RD #
Memphis, TN 38118

This Instrument prepared by: John Skinner Clark, 4747 Getwell Rd., Memphis TN 38118

THIS INDENTURE, made and entered into this 18th day of November, 1998

by and between John Skinner Clark
of the first part, and Willie Smith, Sr.

HX 9879
2

WITNESSETH: That for the consideration hereinafter expressed the said party _____, of the second part
part has: _____ bargained and sold and does _____ hereby bargain, sell, convey and confirm unto the said
party _____ of the second part the following described real estate, situated and being in Memphis
County of Shelby State of Tennessee

A part of the Northeast corner of the Faulkner 79.87 acres, as recorded in Plat Book 17, Page 74, in the Register' Office of Shelby County, Tennessee, to which plat reference is hereby made for a more particular description, and being further described as follows:

BEGINNING at a point in the West line of Getwell Road 600 feet South of the center line of Whitehaven-Capleville Road; thence Westwardly along the North line of the Faulkner tract 285 feet to the Northeast corner of the lot sold to Ira Lee Stewart, recorded in Book 3481, Page 26; thence South along the Stewart East line 200 feet to the North line of Faulkner Road to the Southeast corner of the Stewart lot; thence Eastwardly along the North line of Faulkner Road 306.37 feet to the West line of Getwell Road; thence North along the said West line of Getwell Road 67.41 feet to the point of beginning, and being a part of the same property conveyed to Sidney Baker and wife, Minnie Baker, by Deed from Fannie Lee Faulkner Maxwell, recorded in Book 3187, Page 166. Said property being commonly known and referred to as 4747 Getwell Rd. Said property being the same property conveyed to Party of the first part as Instrument G2 4801.

TO HAVE AND TO HOLD The aforesaid real estate, together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto the said party _____ of the second part, y. _____ heirs and assigns in fee simple forever.

And the said party _____ of the first part does _____ hereby covenant with the said party Y _____ of the second part that he is lawfully seized in fee of the aforescribed real estate; that he has a good right to sell and convey the same; that the same is unencumbered,

and that the title and quiet possession thereto he will warrant and forever defend against the lawful claims of all persons.

THE CONSIDERATION for this conveyance is as follows:

Ten and no/100 (\$10.00) Dollars, and other good and valuable considerations.

WITNESS the signature _____ of the said party _____ of the first part the day and year first above written.

John Skinner Clark
11-19-98

STATE OF TENNESSEE,
County of Shelby.

HX 9879

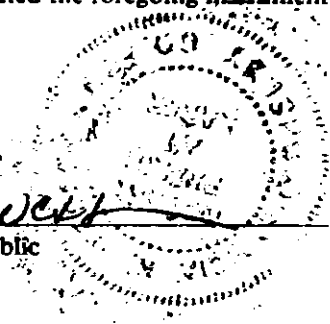
Before me, the undersigned Notary Public in and for the County and State aforesaid, personally appeared _____

John Skinner Clark

with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged to be the person _____ within named and that _____ he _____ executed the foregoing instrument for the purpose therein contained.

WITNESS my hand and seal, this 19th day of November.

Adricia Weaver
Notary Public



MY COMMISSION EXPIRES MAY 14, 2002

My commission expires _____ day of _____, 19_____.

STATE OF TENNESSEE COUNTY OF SHELBY }

I, or we, hereby swear or affirm that to the best of affiant's knowledge, information, and belief, the actual consideration for this transfer or value of the property transferred, whichever is greater is, \$40,000, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Willie Smith Sr.
Affiant

Subscribed and sworn to before me this the 19th day of November 1998.

Adricia Weaver
Notary Public

MY COMMISSION EXPIRES MAY 14, 2002

My commission expires _____ day of _____, 19_____.

073-111-0005

Mail tax notices to: Willie Smith, Sr., 1852 Brierbrook, Germantown, TN 38138

Owner

MEMPHIS TITLE
A DIVISION OF F&M INVESTMENTS, L.L.C.
100 NORTH MAIN BUILDING
POST OFFICE BOX 3073
MEMPHIS, TENNESSEE 38103
TELEPHONE (901) 525-4343

WARRANTY DEED

TO _____

State Tax \$ _____

Clerk's Fee \$ _____

TOTAL \$ _____

Paid.....
Deputy County Court Clerk.

MTC form 0015

The following information is not a part of this Deed.

Property Address 4747 Retwell Rd
Memphis TN

Mail Tax Bill to _____

MT _____

No. HX 9879

D/C _____ DR# 7

Pgs. 2 Hm. _____

Vol. 40000

STATE TAX 1480

REGISTER'S FEE 100

RECORDING FEE 800

D.P. FEE 200

WT MISC FEE _____

TOTAL 1570

STATE OF TENNESSEE
SHELBY COUNTY
GUY B. WOODS
REGISTER

HX9879

SHELBY COUNTY
REGISTER OF DEEDS

98 NOV 19 PH 3:52

WITHDRAWN BY THE APPLICANT



RESOLUTION accepting public improvements for:
Overton Gateway North [CR-5283]
and releasing **Bond** held as security

WHEREAS, **Makowsky Ringel and Greenberg, LLC.**, is the Developer of a certain property within the present limits of the City of Memphis, and located at the northwest corner of East Parkway North and Sam Cooper intersection, in Memphis, Tennessee.

and

WHEREAS, all of the public improvements, required by the Standard Improvement Contract for the project, are completed;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the engineering plans for **Overton Gateway North [CR-5283]**, and the completion of the public improvements therein, are and the same, and are hereby accepted by the City.

BE IT FURTHER RESOLVED, that the **Performance Bond**, in the amount of **\$54,600.00** and held as security for the Standard Improvement Contract, is **hereby ordered released**.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12425, Pure Storage Backup Expansion to Thomas Gallaway Corporation dba Technologent in the funded amount of \$989,272.50.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment and material to purchase and install additional storage for existing Pure Storage FlashArray C Series Storage at the following MLGW Data Centers: one (1) Pure Storage Flash Array C Series Storage at the Netters Business Center, 1665 Whitten Road, Memphis, Tennessee 38134; and one (1) Pure Storage FlashArray C Series Storage at the Hansen Administration Building, 220 South Main Street, Memphis, Tennessee 38103 as outlined in the Contract Documents and Specifications. Bidders are required to be Authorized Resellers of Pure Storage, Inc. Products and Services.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023, awarded Contract No. 12425, Pure Storage Backup Expansion to Thomas Gallaway Corporation dba Technologent in the funded amount of \$989,272.50 and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment and material to purchase and install additional storage for existing Pure Storage FlashArray C Series Storage at the following MLGW Data Centers: one (1) Pure Storage Flash Array C Series Storage at the Netters Business Center, 1665 Whitten Road, Memphis, Tennessee 38134; and one (1) Pure Storage FlashArray C Series Storage at the Hansen Administration Building, 220 South Main Street, Memphis, Tennessee 38103 as outlined in the Contract Documents and Specifications. Bidders are required to be Authorized Resellers of Pure Storage, Inc. Products and Services; and

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on March 17, 2023. MLGW solicited 16 bids and received five (5) bids on April 11, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The lowest and best bid was received from Thomas Gallaway Corporation dba Technologent in the funded amount of \$989,272.50. The term of this contract is for a period of one (1) year from the date of the Notice to Proceed with provisions for annual hardware support services. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12425, Pure Storage Backup Expansion to Thomas Gallaway Corporation dba Technolgent in the funded amount of \$989,272.50 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12425, Pure Storage Backup Expansion to Thomas Gallaway Corporation dba Technologent in the funded amount of \$989,272.50.

The project scope is to furnish supervision, labor, transportation, equipment and material to purchase and install additional storage for existing Pure Storage FlashArray C Series Storage at the following MLGW Data Centers: one (1) Pure Storage Flash Array C Series Storage at the Netters Business Center, 1665 Whitten Road, Memphis, Tennessee 38134; and one (1) Pure Storage FlashArray C Series Storage at the Hansen Administration Building, 220 South Main Street, Memphis, Tennessee 38103 as outlined in the Contract Documents and Specifications. Bidders are required to be Authorized Resellers of Pure Storage, Inc. Products and Services.

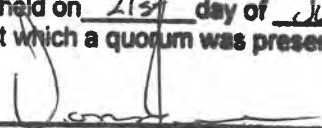
The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on March 17, 2023. MLGW solicited 16 bids and received five (5) bids on April 11, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The lowest and best bid was received from Thomas Gallaway Corporation dba Technologent in the funded amount of \$989,272.50. The term of this contract is for a period of one (1) year from the date of the Notice to Proceed with provisions for annual hardware support services. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12425, Pure Storage Backup Expansion to Thomas Gallaway Corporation dba Technologent in the funded amount of \$989,272.50, as outlined in the above preamble, is approved and further

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular ~~regular~~ meeting held on 21st day of June, 2023, at which a quorum was present.



SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12423, Pure Storage Flash Array XL170(s) to Thomas Gallaway Corporation dba Technogent in the funded amount of \$8,109,596.69.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment and material to purchase and install Pure Storage FlashArrays XL170(s) which will replace 3PAR 7400 storage units at the following MLGW Data Centers: one (1) Pure Storage FlashArray XL170 at the Hansen Administration Building, 220 South Main Street, Memphis, Tennessee 38103; and two (2) Pure Storage FlashArrays at the Netters Business Center, 1665 Whitten Road, Memphis, Tennessee 38134 in accordance as outlined in the Contract Documents and Specifications. Bidders must be Authorized Resellers of Pure Storage, Inc. Products and Services.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023, awarded Contract No. 12423, Pure Storage Flash Array XL170(s) to Thomas Gallaway Corporation dba Technologent in the funded amount of \$8,109,596.69 and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment and material to purchase and install Pure Storage FlashArrays XL170(s) which will replace 3PAR 7400 storage units at the following MLGW Data Centers: one (1) Pure Storage FlashArray XL170 at the Hansen Administration Building, 220 South Main Street, Memphis, Tennessee 38103; and two (2) Pure Storage FlashArrays at the Netters Business Center, 1665 Whitten Road, Memphis, Tennessee 38134 in accordance as outlined in the Contract Documents and Specifications. Bidders must be Authorized Resellers of Pure Storage, Inc. Products and Services; and

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on February 24, 2023. MLGW solicited 21 bids and received five (5) bids on March 28, 2023. Two (2) bids were deemed non-compliant as a result of not bidding according to MLGW's Specifications. The lowest and best bid was received from Thomas Gallaway Corporation dba Technologent in the funded amount of \$8,109,596.69. The term of this contract is for a period of 60 months from the date of the Notice to Proceed with provisions for annual hardware and software maintenance and support services. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12423, Pure Storage Flash Array XL170(s) to Thomas Gallaway Corporation dba Technologent in the funded amount of \$8,109,596.69 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12423, Pure Storage Flash Array XL170(s) to Thomas Gallaway Corporation dba Technologent in the funded amount of \$8,109,596.69.

The project scope is to furnish supervision, labor, transportation, equipment and material to purchase and install Pure Storage FlashArrays XL170(s) which will replace 3PAR 7400 storage units at the following MLGW Data Centers: one (1) Pure Storage FlashArray XL170 at the Hansen Administration Building, 220 South Main Street, Memphis, Tennessee 38103; and two (2) Pure Storage FlashArrays at the Netters Business Center, 1665 Whitten Road, Memphis, Tennessee 38134 in accordance as outlined in the Contract Documents and Specifications. Bidders must be Authorized Resellers of Pure Storage, Inc. Products and Services.

The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on February 24, 2023. MLGW solicited 21 bids and received five (5) bids on March 28, 2023. Two (2) bids were deemed non-compliant as a result of not bidding according to MLGW's Specifications. The lowest and best bid was received from Thomas Gallaway Corporation dba Technologent in the funded amount of \$8,109,596.69. The term of this contract is for a period of 60 months from the date of the Notice to Proceed with provisions for annual hardware and software maintenance and support services. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12423, Pure Storage Flash Array XL170(s) to Thomas Gallaway Corporation dba Technogent in the funded amount of \$8,109,596.69, as outlined in the above preamble, is approved and further

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular ~~regular~~-special meeting held on 21st day of June, 2023, at which a quorum was present.


SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12429, Line Clearance - Area 3 (solicited under Contract No. 12420) to ABC Professional Tree Services, Inc. in the funded amount of \$78,916,006.72. The term of this contract is for 60 months.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023, awarded Contract No. 12429, Line Clearance – Area 3 (*solicited under Contract No. 12420*) to ABC Professional Tree Services, Incorporated in the funded amount of \$78,916,006.72 and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy; and

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on January 27, 2023. MLGW solicited 15 bids and received eight (8) bids on March 7, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The work is divided into three (3) areas of which three (3) separate contracts are proposed for award; of which, one (1) being ABC Professional Tree Services, Inc. for Area 3 in the funded amount of \$78,916,006.72. The term of this contract is for a period of 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12429, Line Clearance – Area 3 (*solicited under Contract No. 12420*) to ABC Professional Tree Services, Incorporated in the funded amount of \$78,916,006.72 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas, and Water Commissioners that it awards Contract No. 12429, Line Clearance – Area 3 (*solicited under Contract No. 12420*) to ABC Professional Tree Services, Inc. in the funded amount of \$78,916,006.72.

The project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy.

The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on January 27, 2023. MLGW solicited 15 bids and received eight (8) bids on March 7, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The work is divided into three (3) areas of which three (3) separate contracts are proposed for award; of which, one (1) being ABC Professional Tree Services, Inc. for Area 3 in the funded amount of \$78,916,006.72. The term of this contract is for a period of 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12429, Line Clearance – Area 3 (*solicited under Contract. No. 12420*) to ABC Professional Tree Services, Inc. in the funded amount of \$78,916,006.72, as outlined in the above preamble, is approved and further

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 21st day of June, 2023, at which a quorum was present.



SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12428, Line Clearance - Area 2 (solicited under Contract No. 12420) to Lewis Tree Service, Inc. in the funded amount of \$68,677,649.74. The term of this contract is for 60 months.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023, awarded Contract No. 12428, Line Clearance – Area 2 (*solicited under Contract No. 12420*) to Lewis Tree Service, Inc. in the funded amount of \$68,677,649.74 and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy; and

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on January 27, 2023. MLGW solicited 15 bids and received eight (8) bids on March 7, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The work is divided into three (3) areas of which three (3) separate contracts are proposed for award; of which, one (1) being Lewis Tree Service, Inc. for Area 2 in the funded amount of \$68,677,649.74. The term of this contract is for a period of 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12428, Line Clearance – Area 2 (*solicited under Contract No. 12420*) to Lewis Tree Service, Inc. in the funded amount of \$68,677,649.74 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas, and Water Commissioners that it awards Contract No. 12428, Line Clearance – Area 2 (*solicited under Contract No. 12420*) to Lewis Tree Service, Inc. in the funded amount of \$68,677,649.74.

The project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy.

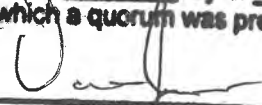
The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on January 27, 2023. MLGW solicited 15 bids and received eight (8) bids on March 7, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The work is divided into three (3) areas of which three (3) separate contracts are proposed for award; of which, one (1) being Lewis Tree Service, Inc. for Area 2 in the funded amount of \$68,677,649.74. The term of this contract is for a period of 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12428, Line Clearance – Area 2 (*solicited under Contract No. 12420*) to Lewis Tree Service, Inc. in the funded amount of \$68,677,649.74, as outlined in the above preamble, is approved and further

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular -special- meeting held on 21st day of June 2023, at which a quorum was present.



SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12420, Line Clearance - Area 1 to W.A Kendall and Company dba Kendall Vegetation Services in the funded amount of \$80,053,213.60. The term of this contract is for 60 months.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023, awarded Contract No. 12420, Line Clearance – Area 1 to W.A Kendall and Company dba Kendall Vegetation Services in the funded amount of \$80,053,213.60 and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy; and

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on January 27, 2023. MLGW solicited 15 bids and received eight (8) bids on March 7, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The work is divided into three (3) areas. Three (3) separate contracts are proposed for award; of which, one (1) being W.A Kendall and Company dba Kendall Vegetation Services for Area 1 in the funded amount of \$80,053,213.60. The term of this contract is for a period of 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12420, Line Clearance – Area 1 to W.A Kendall and Company dba Kendall Vegetation Services in the funded amount of \$80,053,213.60 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas, and Water Commissioners that it awards Contract No. 12420, Line Clearance – Area 1 to W.A Kendall and Company dba Kendall Vegetation Services in the funded amount of \$80,053,213.60.

The project scope is to furnish supervision, labor, transportation, equipment, material, tools, and supplies as required to trim and/or remove all trees and brush, to trim trees in drop crotch and lateral cut trimming methods, to perform other utility forestry services, including chemical spraying, transmission right-of-way clearing and mowing, cleaning up and disposing of materials and to provide clearance for the wires of MLGW, the location of which will be defined by Division work orders, within Memphis and Shelby County, Tennessee. All work shall be done in accordance with the MLGW Line Clearance Policy.

The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on January 27, 2023. MLGW solicited 15 bids and received eight (8) bids on March 7, 2023. One (1) bid was deemed non-compliant as a result of not bidding according to MLGW's Specifications. The work is divided into three (3) areas. Three (3) separate contracts are proposed for award; of which, one (1) being W.A Kendall and Company dba Kendall Vegetation Services for Area 1 in the funded amount of \$80,053,213.60. The term of this contract is for a period of 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12420, Line Clearance – Area 1 to W.A Kendall and Company dba Kendall Vegetation Services in the funded amount of \$80,053,213.60, as outlined in the above preamble, is approved and further

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular ~~regular~~-special meeting held on 21st day of June 2023 at which a quorum was present.



SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 2 to Contract No. 12251, Aerator Maintenance with R. P. Services, Incorporated to renew the current contract. (This change is to renew the current contract for the second of four annual renewal terms for the period covering August 25, 2023, through August 24, 2024) in the funded amount of \$312,120.00.

2. Additional Information

The project scope is to furnish all supervision, labor, tools equipment and transportation necessary to mechanically and hydro-clean aerator structures, floors, media and dosing assemblies of biological films, flock, and aquatic plant growth.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023 approved Change No. 2 to Contract No. 12251, Aerator Maintenance with R. P. Services, Incorporated to renew the current contract in the funded amount of \$312,120.00, and is now recommending to the Council of the City of Memphis that it approves said renewal as approved; and

WHEREAS, the project scope is to furnish all supervision, labor, tools equipment and transportation necessary to mechanically and hydro-clean aerator structures, floors, media and dosing assemblies of biological films, flock, and aquatic plant growth. This change is to renew the current contract for the second of four (4) annual renewal terms for the period covering August 25, 2023 through August 24, 2024 in the funded amount of \$312,120.00. This renewal reflects a 2% increase in rates, in accordance with the contract documents, from the previous renewal term due to increases in the cost of equipment and materials. This renewal complies with all applicable laws and policies. The new contract value is \$918,120.00; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved Change No. 2 to Contract No. 12251, Aerator Maintenance with R. P. Services, Incorporated to renew the current contract in the funded amount of \$312,120.00 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 2 to Contract No. 12251, Aerator Maintenance with R. P. Services, Incorporated to renew the current contract in the funded amount of \$312,120.00.

The project scope is to furnish all supervision, labor, tools equipment and transportation necessary to mechanically and hydro-clean aerator structures, floors, media and dosing assemblies of biological films, flock, and aquatic plant growth. This change is to renew the current contract for the second of four (4) annual renewal terms for the period covering August 25, 2023 through August 24, 2024 in the funded amount of \$312,120.00. This renewal reflects a 2% increase in rates, in accordance with the contract documents, from the previous renewal term due to increases in the cost of equipment and materials. This renewal complies with all applicable laws and policies. The new contract value is \$918,120.00.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 2 to Contract No. 12251, Aerator Maintenance with R. P. Services, Incorporated to renew the current contract in the funded amount of \$312,120.00, as outlined in the above preamble, is approved; and further

THAT, the President, or his designated representative is authorized to execute the Renewal.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular --special- meeting held on 21st day of June, 2023, at which a quorum was present.



SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 1 to Contract No. 12359 (solicited under Contract No. 12292), Professional Engineering Services for Water Engineering with Fisher Arnold (This change is to renew the current contract for the first and second of four annual renewal terms for the period covering October 3, 2023, through October 2, 2025) in the funded not-to-exceed amount of \$760,000.00.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment, and material to provide professional engineering services to include design and construction administration for various projects at MLGW's Water Pumping Station, Water Booster Stations, and Overhead Storage Tanks.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023 approved Change No. 1 to Contract No. 12359 (solicited under Contract No. 12292), Professional Engineering Services for Water Engineering with Fisher Arnold in the funded not-to-exceed amount of \$760,000.00, and is now recommending to the Council of the City of Memphis that it approves said renewal as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment, and material to provide professional engineering services to include design and construction administration for various projects at MLGW's Water Pumping Station, Water Booster Stations, and Overhead Storage Tanks. This change is to renew the current contract for the first and second of four (4) annual renewal terms for the period covering October 3, 2023 through October 2, 2025 in the funded not-to-exceed amount of \$760,000.00, which reflects an increase in most of the contracted position rates due to inflation and rising cost of living. MLGW is also requesting funding for the Contractor to design additional projects over a period of two (2) years. This renewal complies with all applicable laws and policies. The new contract value is \$1,000,000.00; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 1 to Contract No. 12359 (solicited under Contract No. 12292), Professional Engineering Services for Water Engineering with Fisher Arnold in the funded not-to-exceed amount of \$760,000.00 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 1 to Contract No. 12359 (solicited under Contract No. 12292), Professional Engineering Services for Water Engineering with Fisher Arnold in the funded not-to-exceed amount of \$760,000.00.

The project scope is to furnish supervision, labor, transportation, equipment, and material to provide professional engineering services to include design and construction administration for various projects at MLGW's Water Pumping Station, Water Booster Stations, and Overhead Storage Tanks. This change is to renew the current contract for the first and second of four (4) annual renewal terms for the period covering October 3, 2023 through October 2, 2025 in the funded not-to-exceed amount of \$760,000.00, which reflects an increase in most of the contracted position rates due to inflation and rising cost of living. MLGW is also requesting funding for the Contractor to design additional projects over a period of two (2) years. This renewal complies with all applicable laws and policies. The new contract value is \$1,000,000.00.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 1 to Contract No. 12359 (solicited under Contract No. 12292), Professional Engineering Services for Water Engineering with Fisher Arnold in the funded not-to-exceed amount of \$760,000.00, as outlined in the above preamble, is approved; and further

THAT, the President, or his designated representative is authorized to execute the Renewal.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular -special meeting held on 21st day of June 2023, at which a quorum was present.



SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 1 to Contract No. 12292, Professional Engineering Services for Water Engineering with Allen & Hoshall. (This change is to renew the current contract for the first and second of four annual renewal terms for the period covering September 29, 2023, through September 28, 2025) in the funded not-to-exceed amount of \$760,000.00.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment, and material to provide professional engineering services to include design and construction administration for various projects at MLGW's Water Pumping Station, Water Booster Stations, and Overhead Storage Tanks.

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of June 21, 2023 approved Change No. 1 to Contract No. 12292, Professional Engineering Services for Water Engineering with Allen & Hoshall in the funded not-to-exceed amount of \$760,000.00, and is now recommending to the Council of the City of Memphis that it approves said renewal as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment, and material to provide professional engineering services to include design and construction administration for various projects at MLGW's Water Pumping Station, Water Booster Stations, and Overhead Storage Tanks. This change is to renew the current contract for the first and second of four (4) annual renewal terms for the period covering September 29, 2023 through September 28, 2025 in the funded not-to-exceed amount of \$760,000.00, with no increase in rates. MLGW is requesting funding for the Contractor to design additional projects over a period of two (2) years. This renewal complies with all applicable laws and policies. The new contract value is \$1,000,000.00; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 1 to Contract No. 12292, Professional Engineering Services for Water Engineering with Allen & Hoshall in the funded not-to-exceed amount of \$760,000.00 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 1 to Contract No. 12292, Professional Engineering Services for Water Engineering with Allen & Hoshall in the funded not-to-exceed amount of \$760,000.00.

The project scope is to furnish supervision, labor, transportation, equipment, and material to provide professional engineering services to include design and construction administration for various projects at MLGW's Water Pumping Station, Water Booster Stations, and Overhead Storage Tanks. This change is to renew the current contract for the first and second of four (4) annual renewal terms for the period covering September 29, 2023 through September 28, 2025 in the funded not-to-exceed amount of \$760,000.00, with no increase in rates. MLGW is requesting funding for the Contractor to design additional projects over a period of two (2) years. This renewal complies with all applicable laws and policies. The new contract value is \$1,000,000.00.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 1 to Contract No. 12292, Professional Engineering Services for Water Engineering with Allen & Hoshall in the funded not-to-exceed amount of \$760,000.00, as outlined in the above preamble, is approved; and further

THAT, the President, or his designated representative is authorized to execute the Renewal.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular -special meeting held on 21st day of June 2023, at which a quorum was present.



SVP, CFO & CAO Secretary - Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 2 to Contract No. 12193, Grounds Maintenance and Landscaping Service with Rotolo Consultants, Incorporated to renew the current contract in the funded amount of \$262,471.23.

2. Additional Information

The project scope is to perform mowing, weed-eating, trimming, irrigation services, fertilizing, mulching and other grounds maintenance services at the following MLGW locations: 220 South Main Street; 245 South Main Street; 1665 Whitten Road; 4949 Raleigh LaGrange Road; 2425 Covington Pike; and the vacant lot south of 1665 Whitten Road (all work listed for 1665 Whitten Road is to be performed on Saturdays).

RESOLUTION

WHEREAS, the board of Light, Gas and Water Commissioners in their meeting of June 21, 2023 approved Change No. 3 to Contract No. 12193, Grounds Maintenance and Landscaping Service with Rotolo Consultants, Incorporated to ratify, expand the scope and increase the current contract in the funded amount of \$262,471.73, and is now recommending to the Council of the City of Memphis that it approves said ratification and change as approved; and

WHEREAS, the project scope is to perform mowing, weed-eating, trimming, irrigation services, fertilizing, mulching and other grounds maintenance services at the following MLGW locations: 220 South Main Street; 245 South Main Street; 1665 Whitten Road; 4949 Raleigh LaGrange Road; 2425 Covington Pike; and the vacant lot south of 1665 Whitten Road (all work listed for 1665 Whitten Road is to be performed on Saturdays). This change is to ratify and expand the scope of services for a 5-month period to include the following MLGW locations: Water Pump Stations, Water Tank Stations, Booster Locations, Gas Plants, and two (2) vacant lots. In addition, this change is to increase the current contract value in the funded amount of \$262,471.73 to fund ground maintenance services at the expanded locations until Contract No. 12415 is executed. The term of the contract will remain for the period covering May 3, 2023 through May 2, 2024. This ratification and change complies with all applicable laws and policies. The new contract value is \$512,112.95; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 3 to Contract No. 12193, Grounds Maintenance and Landscaping Service with Rotolo Consultants, Incorporated to ratify, expand the scope and increase the current contract in the funded amount of \$262,471.73 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
June 21, 2023

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 3 to Contract No. 12193, Grounds Maintenance and Landscaping Service with Rotolo Consultants, Incorporated to ratify, expand the scope and increase the current contract in the funded amount of \$262,471.73.

The project scope is to perform mowing, weed-eating, trimming, irrigation services, fertilizing, mulching and other grounds maintenance services at the following MLGW locations: 220 South Main Street; 245 South Main Street; 1665 Whitten Road; 4949 Raleigh LaGrange Road; 2425 Covington Pike; and the vacant lot south of 1665 Whitten Road (all work listed for 1665 Whitten Road is to be performed on Saturdays). This change is to ratify and expand the scope of services for a 5-month period to include the following MLGW locations: Water Pump Stations, Water Tank Stations, Booster Locations, Gas Plants, and two (2) vacant lots. In addition, this change is to increase the current contract value in the funded amount of \$262,471.73 to fund ground maintenance services at the expanded locations until Contract No. 12415 is executed. The term of the contract will remain for the period covering May 3, 2023 through May 2, 2024. This ratification and change complies with all applicable laws and policies. The new contract value is \$512,112.95.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 3 to Contract No. 12193, Grounds Maintenance and Landscaping Service with Rotolo Consultants, Incorporated to ratify, expand the scope and increase the current contract in the funded amount of \$262,471.73, as outlined in the above preamble, is approved; and further

THAT, the President, or his designated representative is authorized to execute the Ratification and Change.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular ~~regular~~ ^{special} meeting held on 21st day of June 2023, at which a quorum was present.


SVP, CFO & CAO Secretary - Treasurer



JIM STRICKLAND
MAYOR

June 6, 2023

The Honorable Michalyn Easter-Thomas, Chairman
Personnel, Government Affairs, and Annexation Committee
City Hall - Room 514
Memphis, TN 38103

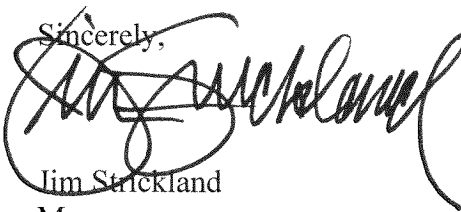
Dear Chairman Easter-Thomas:

Subject to Council approval, I hereby recommend that:

John R. Butler

be appointed to the Memphis Light, Gas, and Water Commission as a non-voting County wide advisory member with a term expiration date of July 30, 2026.

I have attached biographical information.

Sincerely,

Jim Strickland
Mayor

Ordinance No. _____

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MEMPHIS, TENNESSEE, CHAPTER 15, TIRE BUSINESS AND TIRE HAULER REGULATION, TO PROVIDE FURTHER REQUIREMENTS FOR TIRE BUSINESS RETAILERS REGARDING THE STORAGE AND HAULING OF TIRES

WHEREAS, it is the desire of the Memphis City Council to take action to reduce the amount of illegal dumping in the City of Memphis, especially as it pertains to tires, in order to help improve blight that is present in Memphis neighborhoods; and

WHEREAS, the improper placement of tires on sidewalks, streets, utility easements, vacant lots, public rights of way, and in other areas destructive to neighborhoods, contributes to blight and the propagation of illegal dumping.

WHEREAS, it is necessary to amend certain sections of the Memphis City Code Chapter 9-58, Tire Business and Tire Hauler Regulation, to provide further requirements for tire business retailers regarding the storage and hauling of tires.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Memphis, that,
Section 1. Chapter 15, Article III, “Tire Business and Tire Hauler Regulation” of the official Memphis Code of Ordinances, is hereby amended as follows:

Sec. 15-46. Purpose and intent.

It is declared to be the purpose and intent of the city to protect the public health, safety, and welfare of its citizens, prevent the spread of disease and creation of nuisances, and to protect and enhance the quality of its environment. The purpose of this chapter is to institute and maintain a comprehensive city-wide program for tire disposal which will ensure that the storage, transportation, collection, processing and disposal of tires does not adversely affect the health, safety, and well-being of the public and does not degrade the quality of the environment.

Sec. 15-47. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dump means to throw, discard, place, deposit, discharge, bury, or dispose of.

Elements of nature means rainfall, snow, sleet, hail or other natural precipitation.

Manifest means a form or document used for identifying the quantity and the origin, routing, and destination of tires during transportation from the point of generation, through any intermediate points, to an end user, processor or disposer.

Person means any and all persons, natural or artificial, including any individual, firm or association.

Storage means to place, collect, or accumulate tires that are not for sale or resale as tires, whether the tires are directly on the ground, in roll-off containers, or otherwise.

Tire means a continuous solid or pneumatic rubber, covering encircling the wheel of a bicycle, motorcycle, automobile, truck, trailer, tractor or other vehicle.

Tire business means and includes any place or establishment engaged in the business of reselling tires or that generates waste tires and is occupied, used or maintained for the purpose of offering, transporting, repairing, processing, storing, utilizing, and disposing of any and all types of such tires.

Tire marking means the marking of a tire with the tire business permit number.

Tire recycling facility means a county facility, mandated and licensed pursuant to the Tennessee Solid Waste Management Act, which recycles or properly disposes of tires.

Waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. The term "waste tire" also includes any tire that is destined for a tire disposer or reprocessor (i.e., recapper).

Waste tire hauler means any person or entity permitted by the City engaged in the business of picking up or transporting waste tires for the purpose of removal to a tire recycling facility, waste tire disposer, processor, end user, or disposal facility.

Waste tire disposer means any person who is approved by the state department of environment and conservation to receive waste tires from waste tire generators or waste tire haulers for the purpose of waste tire processing, shredding or otherwise facilitating recycling or resource recovery techniques for waste tires.

Waste tire generator means any person or entity that generates waste tires. Generators may include, but are not limited to, retail tire dealers, retreaders, waste tire disposers not approved by the state department of environment and conservation, automobile dealers, private company vehicle maintenance shops, garages, and service stations.

Sec. 15-48. Tire business permits.

All tire businesses located within the city limits engaging in the resale of tires or the generation of waste tires shall be issued a permit annually by the city, by and through its permits office for a nonrefundable fee of \$25.00. Tire businesses with multiple locations must purchase a permit for each location. Tire businesses that have their own trucks utilized to transport waste tires will

receive one decal included with the permit fee. A separate decal must be purchased by such business for any additional truck utilized by the tire business to transport waste tires at a cost of \$15.00 per decal. The city will conduct random inspections of such tire businesses for the sake of monitoring compliance with the foregoing requirement. Tire business permits issued under this article are personal to the applicant and may not be transferred, leased assigned, or given away or sold in any manner or under any circumstance. It shall be the duty of each registrant and permittee to advise the permits office in writing in ten business days of any change to any item for which representation or response was made in its application for registration or permit.

A. Application. Every person, firm or corporation obligated to comply with the permit requirement set forth herein shall make written application to the city. The application shall be made on a form obtained from the city permits office setting forth, among other things, the following:

1. Name, physical address, telephone and facsimile number of the applicant;
2. Tax identification number or taxpayer identification number;
3. Proof of current county business license, issued to the applicant at the proposed business address;
4. County code enforcement use and occupancy certificate;
5. Name, mailing address, telephone and facsimile number of the owner of the tire business (if different from subsection A.1 of this section);
6. Name, mailing address, telephone, facsimile number and copy of a valid City of Memphis tire hauler permit of the waste tire hauler who will be transporting tires and waste tires to and from the tire business.
7. The estimated maximum number of tires that will be stored on site;
8. The current physical address of the site;
9. A statement setting forth and describing the available space for properly accommodating and protecting all tires;
10. Proof of insurance required in accordance with the state financial responsibility laws;
11. Such other and further information as the permits office may require.

B. Annual fees.

1. All permit and decal fees are due annually by July 1 of each calendar year at the city permits office. These annual fees shall be paid in advance of the issuance of such permit and decal and shall be prorated as necessary.

2. A current valid permit or decal may be replaced by the permits office for a fee of \$15.00.

C. Issuance. The permits office shall issue a permit and decal to a tire business which submits the required and completed application, pays to the city the fee as required in this chapter, and has demonstrated compliance with this chapter and all applicable city ordinances. Each tire business registered in accordance with the provisions of this chapter shall immediately post such permit and decal in a prominent manner, or cause such permit to be posted in a conspicuous place within the premises where such tire business is thereby authorized to be established, maintained or operated. The decal shall be conspicuously displayed on each vehicle owned by such tire business that is utilized to transport used or waste tires. Any permit or decal issued hereunder shall not be sold, assigned, mortgaged or otherwise transferred without approval by the city permits office and shall expire upon termination of the existence of the tire business or revocation of such business' permit.

D. Effective period. The permit shall be effective beginning on July 1 until the next ensuing June 30, on and after which date it shall be null and void.

Sec. 15-49. Tire hauler permit.

All tire haulers, not affiliated with a tire business that is properly permitted as required herein, transporting used or waste tires within the city limits shall be issued a permit and decal annually by the city, by and through its permits office for a nonrefundable fee of \$250.00. Tire haulers with multiple locations must purchase a permit for each location. Tire haulers will receive one decal included with the permit fee. A separate decal must be purchased by such hauler for any additional vehicles utilized by the hauler to transport waste tires at a cost of \$15.00 per decal. Tire hauler permits issued under this article are personal to the applicant and may not be transferred, leased assigned, or given away or sold in any manner or under any circumstance. It shall be the duty of each registrant and permittee to advise the permits office in writing in ten business days of any change to any item for which representation or response was made in its application for registration or permit.

A. *Application.* Every person, firm or corporation obligated to comply with the permit and decal requirement set forth herein shall make written application to the city. The application shall be made on a form obtained from the city permits office setting forth, among other things, the following:

1. Name, physical address, telephone and facsimile number of the applicant;
 2. Tax identification number or taxpayer identification number (if applicable);
 3. Proof of current county business license, issued to the applicant at the proposed business address;
 4. Proof of insurance required in accordance with the state financial responsibility laws;
 5. Such other and further information as the permits office may require.
- B. Annual fees.

1. All permit and decal fees are due annually by July 1 of each calendar year at the city permits office. These annual fees shall be paid in advance of the issuance of such permit, and such fee shall be prorated as necessary.

2. A current valid permit or decal may be replaced by the permits office for a fee of \$15.00.

C. *Issuance.* The permits office shall issue a permit and decal to a tire hauler who submits the required and completed application, pays to the city the fee as required in this chapter, and has demonstrated compliance with this chapter and all applicable city ordinances. Each waste tire hauler registered in accordance with the provisions of this chapter shall conspicuously post and maintain such decal in his or her vehicle which is used for transporting tires at all times. Any permit or decal issued hereunder shall not be sold, assigned, mortgaged or otherwise transferred without approval by the city permits office and shall expire upon termination of the tire hauler's business or revocation of such hauler's permit.

D. *Effective period.* The permit shall be effective beginning on July 1 until the next ensuing June 30, on and after which date it shall be null and void.

E. *Permit exemptions.* The following persons are exempt from the tire hauler permit requirements set forth herein:

1. A tire hauler who is regulated or licensed by, and is currently in compliance with, state or federal agencies such as the department of transportation;

2. A private individual transporting the individual's own waste tires to an approved tire disposal or tire recycling facility;

3. Haulers removing four or less tires from a residential location, which is under contract to remove that residence's solid waste; or

4. Anyone transporting four or fewer used tires directly from a used tire generator facility to a point of re-use or proper storage prior to their re-use.

Sec. 15-50. Denial of permit or renewal; suspension or revocation of permit.

In addition to the penalties set forth in section 9-58-12, the permits office may refuse to issue or renew a tire business or tire hauler permit or may suspend or revoke such permit if:

A. The applicant or permit holder refuses to allow entry into the tire business by the authorized representatives of the city or otherwise willfully obstructs the inspection of the tire business;

B. There are repeated or serious violations of any city ordinance by the tire business or tire hauler;

C. The tire business or tire hauler fails to comply with any provisions of this chapter and/or any other applicable city ordinance;

D. The tire business or tire hauler fails to comply with any applicable state or federal law, rule or regulation, including state and local traffic laws; or

E. The tire business knowingly authorizes a tire hauler who is not properly permitted as required in section 9-58-4 to transport tires on behalf of such business.

Sec. 15-51. Destruction of tires.

Any tire that is no longer suitable for its original intended purpose or deemed unfit for resale by a tire business shall be rendered unusable and properly disposed of at an authorized tire disposal or recycling facility. Such unusable and unfit tires may not be returned to the customer for disposal by that customer, but the customer may, in writing, request their return for continued use and, in so doing, releases the facility from all liability for that reuse. Each tire business shall have six months from the effective date of the ordinance from which this chapter is derived to comply with this provision. Failure to comply with this requirement shall be grounds for revocation of the permit holder's permit in accordance with section 9-58-5.

Sec. 15-52. Storage of tires.

Tire businesses shall properly store tires at each facility in accordance with local, state and federal laws. Prior to storage, each tire shall be permanently marked with the tire business permit number. To eliminate potential nuisances of litter, insect breeding, fire hazards and other health risks, each tire business shall at all times during storage:

A. Store tires in covered or enclosed areas, or under an impermeable cover, in accordance with applicable health and safety laws, including but not limited to the city's fire prevention code, to prevent the exposure to and collection of elements of nature, and accumulation of water, dirt or other foreign materials;

B. Tires stored outside shall be screened from public view.

C. Secure tires at each facility to prevent easy access or theft (lock, chain, or store inside a building or other securable structure);

D. Used tires, waste tires and tire pieces shall be stored separately.

E. Accumulate tires in piles in accordance with the city's fire prevention code, but not in excess of seven feet in height;

F. Isolate tires from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers;

G. Store no more than 100 tires in each bay ~~or 100 tires per 1,500 square feet of inside storage space~~ and a maximum of 500 tires total.

Sec. 15-53. Transport and place for disposal of tires.

- A. All tires and waste tires shall be covered and secured during transport upon any public road or highway by a permitted waste tire hauler.
- B. It shall be unlawful for any person or tire business to cause, suffer or allow the dumping of tires at any place in the city, including, without limitation, in or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, any public or private property in the city or any waters in the city. Notwithstanding the foregoing, residential property owners within the city may properly discard up to four rimless used or waste tires on the curbside immediately in front of the property owner's residence for normal trash pickup without violating this provision; provided that such tires are discarded for removal within 24 hours of the property owner's designated day for trash pickup.
- C. It shall be unlawful for any person or tire business to cause, suffer, or allow the disposal of whole tires in a landfill.
- D. Tires shall be properly disposed of in accordance with section 9-58-9 by the delivery and manifesting of tires to an authorized tire disposal or tire recycling facility designated by the city. Tire businesses contracting with a tire hauler for the proper disposal of tires generated by such business shall require such hauler utilize a transmittal manifest documenting the pickup and delivery of the tires to an authorized tire disposal or tire recycling facility.
- E. It shall be unlawful for any person, tire business, or tire hauler to transport or dispose of tires or waste tires that are not marked with the tire business permit number.

Sec. 15-54. Disposal records/transmittal manifest.

- A. Tire businesses shall keep disposal records in the form of a daily transmittal manifest, as prescribed by the city, of the numbers of tires and waste tires received and transported away at each business location for a minimum of three years and make such records readily available upon request at reasonable hours for inspection by representatives of the city. The daily manifest must be maintained legibly and signed by an authorized representative of the tire business and clearly state the following:
 - 1. Name, address, telephone number, permit number and authorized signature of the tire hauler;
 - 2. Name, address, telephone number, and authorized signature of the tire business who is contracting for the removal of the tires along with the permit number for such business;
 - 3. Date and time of removal/transport and the number of tires being transported;
 - 4. Name, address, and telephone number of the location where the tires are to be delivered; and

5. Upon delivery, the name and signature of the person accepting the tires, including the date of acceptance, the number of tires received, and certification the received tires are properly marked with permit numbers.

B. The manifest required by this section shall at all times accompany tires while in transit. Any tire business directly delivering waste or used tires generated at its business location to a tire disposal or tire recycling facility must also utilize the daily transmittal manifest and make such manifest available for production or inspection by representatives of the city, upon request. The original manifest shall be maintained by the tire business evidencing all information and signatures required herein, notwithstanding the use of a tire hauler or direct delivery by the tire business. A tire hauler contracted to deliver tires to a recycling facility or disposal facility must maintain a duplicate copy of the manifest reflecting the delivery of such tires for proper disposal. The tire recycling or tire disposal facility shall sign the manifest upon acceptance of the tires and also maintain a copy of the manifest for the facility's records.

C. It shall be unlawful for tire businesses to accept delivery of tires or waste tires without tire markings. All tire businesses shall immediately report to City of Memphis code enforcement if tires or waste tires are delivered without tire markings.

Sec. 15-55. Redemption program.

A. For the purpose of assisting with the proper disposal of waste or scrap tires, any county resident, other than a tire business or waste tire carrier, generator, hauler, disposer, or sorter, presenting an illegally disposed used or waste tire to an authorized tire disposal or recycling facility shall receive a redemptive value of \$1.00 per tire. The tire disposal or tire recycling facility receiving such tires shall require that the person presenting such tires for redemption execute an affidavit certifying that the tires were not stolen and that such person was not hired to haul such used or waste tires for disposal. Upon execution of such affidavit, the permits office is hereby authorized to make payment to the affiant after five calendar days and shall properly record and retain documentation reflecting such payment for a period of 12 months. Any person presenting a used or waste tire for redemption shall present valid Tennessee identification evidencing a Shelby County address. Information regarding the location of authorized tire disposal and tire recycling facilities shall be made available through the permits office.

B. The redemption program established in subsection A of this section shall commence immediately upon the effective adoption of the ordinance from which this chapter is derived and shall expire within 12 months of same, unless prior to such date the city council, after conducting public hearings, finds that the purpose of the program has yet to be fully achieved, in which case it may extend the effective period of the program for an additional two years.

C. Tire businesses and haulers may dispose of up to ten tires every thirty days at a City of Memphis owned and operated convenience center for no associated cost.

Sec. 15-56. Administration/enforcement.

A. Administration and enforcement of this chapter shall be the responsibility of the city permits office, city police department, public works division, and community enhancement division. The city, by and through its authorized representatives, is hereby authorized to enter any property regulated by this chapter, at reasonable or necessary times in order to properly inspect for violations.

B. The permits office is hereby authorized to promulgate all such rules and regulations considered necessary and proper to effectuate the implementation and enforcement of this chapter.

Sec. 15-57. Violations and penalties.

A. The improper storage of one or more used tires shall constitute a separate offense per tire and be punishable by a fine of \$50.00 for each improperly stored tire on the location of the tire business. Each day of continued violation of this subsection constitutes a separate offense.

B. The transport of one or more tires without the required permit and decal shall constitute a separate offense per tire and be punishable by a fine of \$50.00 for each tire being transported in violation of this chapter. Each day of continued violation of this subsection constitutes a separate offense. In addition, if the improper transport of one or more tires was done from an identified motor vehicle, with the aid of an identified motor vehicle, or in connection with an identified motor vehicle, a traffic citation shall be issued against such vehicle for \$50.00 for each offense of a tire or tires being transported in violation of this chapter. Furthermore, such traffic citation for improper dumping of tires, if unpaid, shall also constitute grounds for impoundment and/or immobilization of such vehicle as provided in section 11-40-27.

C. The improper transporting or dumping of a tire shall constitute a separate offense per tire and be punishable by a fine of \$50.00 for each tire found improperly dumped. Each day of continued violation of this subsection constitutes a separate offense. In addition, if the improper transporting or dumping of one or more tires was done from an identified motor vehicle, with the aid of an identified motor vehicle, or in connection with an identified motor vehicle, a traffic citation shall be issued against such vehicle for \$50.00 for each tire being transported in violation of this chapter. Furthermore, such traffic citation for improper transporting or dumping of tires, if unpaid, shall also constitute grounds for impoundment and/or immobilization of such vehicle as provided in section 11-40-27.

Sec. 15-58. Injunctive relief.

In addition to, and cumulative of, all other penalties herein provided, the city shall have the right to seek injunctive relief, for any violation of this chapter.

Sec. 15-59. Tire disposal fund.

All funds received by the city pursuant to this chapter shall solely be used to pay for the administrative and operational costs resulting from the enforcement and implementation of this chapter. The city shall also contribute \$50,000.00 for the establishment of a special fund designated by the city comptroller as the tire disposal fund which shall be used to fund the city's share of the redemption program.

Section 2. Severability. The provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 3. Effective Date. This Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSORS

Rhonda Logan
Jana Swearngen-Washington
Chase Carlisle
Michalyn Easter-Thomas
Edmund Ford, Sr.
Cheyenne Johnson
JB Smiley, Jr.

CHAIRMAN

Martavius Jones

AN ORDINANCE TO AMEND CHAPTER 41- WRECKERS OR TOWING OPERATORS OF THE CODE OF ORDINANCES OF MEMPHIS, TENNESSEE, SO AS TO UPDATE FEES PRESCRIBED

WHEREAS, the Memphis City Council strives to ensure our laws are clear, current and relevant to keep our citizens safe and best serve our business community, assisting them in operating in accord with the laws contained within the Tennessee Code Annotated and the Code of Ordinances of Memphis, Tennessee; and

WHEREAS, the City of Memphis has a significant governmental interest in protecting the health, safety and welfare of the general public and preserving the public order; and

WHEREAS, Chapter 41 of the Code of Ordinances of Memphis, Tennessee, allows the Memphis City Council to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the City; and

WHEREAS, the fees charged for non-consensual wreckers and towing operators within the City of Memphis have not been updated since 2006; in contrast, the cost of doing business has steadily risen since 2006, and current inflation and materials pricing have raised that cost even higher; and

WHEREAS, steady or increasing calls for service, coupled with space and staffing shortages at the City of Memphis Impound Lot require Towing Company drivers to spend more time dropping vehicles on the lot, thus further eroding the profitability of the business; and

WHEREAS, the Memphis City Council has heard the pleas of the city's Towing Operators to raise fees for their service to sustainable levels;

NOW, THEREFORE,

Section 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 41 - Wreckers and Towing Operators, of the Code of Ordinances, is hereby amended as follows:

Article 1, Section 41-6. Wrecker Fees Prescribed

(1) Class A Wrecker Service: The maximum charge for Class A wrecker services, except in those instances which require the use of heavy-duty equipment as provided for in paragraph (2)(a) of this section, shall be as follows within the corporate limits of the city:

Year	Fee
2023	Two hundred and twenty-five dollars (225.00)
and all the years thereafter, until further amended	

The fee for towing required on a Night/ Weekend/ Holiday shall be two hundred and fifty dollars (\$250.00). For purposes of this and Sections 1-41-6-2 and 1-41-6-3, "Night" shall be defined as the hours

between 6 PM and 6 AM daily; "Weekend" shall be defined as the hours between 6 PM Friday and 6 AM Monday; "Holiday" shall be defined as any paid holiday recognized by the U.S. Federal or Tennessee State Governments.

The applicable fee shall include the point of final destination given to the wrecker driver in accordance with section 41-12(a).

Should the vehicle to be towed require extra winching, an additional one-hundred dollar (\$100.00) fee shall be assessed.

(2) Class B Wrecker Service fees shall apply as follows:

Year	Fee
2023 and all the years thereafter, until further amended	Five hundred dollars (500.00) per hour

The fee for towing by a Class B Wrecker required on a Night/ Weekend/ Holiday shall be five hundred twenty-five dollars (\$525.00) per hour.

These fee amounts shall be for the first hour or any portion thereof and for each additional hour thereafter.

The fee for extra winching for a Class B Wrecker shall be three hundred dollars (\$300.00) per hour

The fee for the use of a licensed driver helper will be sixty dollars (\$60.00) per hour. The licensed driver helper's time will commence at the time the wrecker arrives on the scene where the vehicle is located and will terminate at the time the wrecker and vehicle to be towed arrives at the final destination.

(3) Class C Wrecker service fees shall apply as follows:

Year	Fee
2023 and all the years thereafter, until further amended	Six hundred seventy-five dollars (\$675.00) per hour

The fee for towing by a Class C Wrecker required on a Night/ Weekend/ Holiday shall be seven hundred dollars (\$700.00) per hour.

These fee amounts shall be for the first hour or any portion thereof and each additional hour for the use of the wrecker.

The fee for the use of a licensed driver helper will be one hundred dollars (\$100.00) per hour. The licensed driver helper's time will commence at the time the wrecker arrives on the scene where the vehicle is located and will terminate at the time the wrecker and vehicle to be towed arrives at the final destination.

Airbag Fee

Should the tow require the use of Airbags, an additional fee of \$1,500 per hour shall be assessed.

This fee amount shall be for the first hour or any portion thereof and each additional hour for the use of the Airbags.

“Oil-Dri” Fee

When a wrecker service is required to use “Oil-Dri” to remove fluids from the scene of a tow, the fee for such use shall be fifteen dollars (\$15.00) per bag.

Wreck Cleanup Fee

Should the tow require of the wrecker service the cleanup of debris from a wreck or collision, an additional fee of \$45 shall be assessed.

Fee To Drop Vehicle Before Departing.

If the owner or operator of the vehicle is present and removes the vehicle to be towed from the premises before it is connected to the towing vehicle, the owner or operator shall not be charged any fee. If the owner or operator of the vehicle is present after the towing vehicle has been connected to the vehicle to be towed, the vehicle shall not be towed, but the owner or operator of the vehicle shall be liable for a reasonable fee not to exceed seventy-five dollars (\$75.00), in lieu of towing, provided the owner or operator of the vehicle forthwith removes the vehicle from the premises. A vehicle shall be deemed connected if every procedure required to secure the vehicle to the wrecker or wrecker equipment so that the vehicle may be safely towed has been completed at the time the owner or operator arrives, including the attachment of any safety chains. In the event that a tow is disregarded, the wrecker owner/operator responding to the call shall be rotated back to the top of the City's Wrecker Rotation List.

Bi-Annual Fee Review

The fees prescribed in this Chapter, including the foregoing and any prescribed in the Chapter's subsequent Articles or Sections, shall be subject to review by the Memphis City Council once every two years, to ensure parity with Towing Operator business costs.

Section 41-7. City Impound Lot Storage Fees, Private Lot Fees, and Administrative Fees

(a) An administrative fee of seventy-five dollars (\$75.00) will be assessed for each tow ticket processed at the Memphis Police Department (City Impound Lot Facility). Such fee shall be charged to the consumer.

(b) The storage of a vehicle by a wrecker operator on any municipally operated vehicle storage or impound lot shall be forty dollars (\$40.00) for each twenty-four (24) hour period, or fraction thereof, after the first two (2) hours of impoundment. All vehicles shall be towed to the City Impound Lot except vehicles which have been damaged in an accident and cannot be safely driven. Such vehicles shall be removed from the scene of the accident by a wrecker service owner or operator and towed to such wrecker owner or operator's private wrecker lot, provided that, such wrecker owner or operator has not been notified by the Memphis Police Department that the vehicle is needed for evidentiary or investigative purposes.

(c) The storage fee for tractor trailer trucks shall be seventy dollars (\$70.00) for the rig and seventy dollars (\$70.00) for the trailer, for each twenty-four hour period, or fraction thereof. All vehicles must be stored behind the fence of the vehicle storage lot.

(d) A "Gate Fee" of fifty dollars (\$50.00) shall be charged to release any car from the Impound Lot during business hours. Should a release be required during hours defined as "Night," "Weekend" or "Holiday" in 1-41-6-1, a Gate Emergency Release Fee of \$100 shall be charged.

Section 2. BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect after having been passed by City Council, signed by the Chair of Council, certified and delivered to the office of the Mayor in writing by the comptroller, and becomes effective as otherwise provided by law.

Sponsor:

Ford Canale

REFERENDUM ORDINANCE NO. _____

A REFERENDUM ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879 AS AMENDED, PURSUANT TO ARTICLE XI, § 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT), SO AS TO PROVIDE PROVISIONS FOR THE REGULATION OF DEADLY WEAPONS

WHEREAS, it is deemed advisable and in the best interest of the citizens of the City of Memphis that the City of Memphis Charter be amended by ordinance as provided by Article XI, Section 9 of the Constitution of the State of Tennessee (Home Rule Amendment) for the purpose of regulating deadly weapons in the City of Memphis.

Section 1. Proposed Amendment Authorized.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE, That pursuant to Article XI, Section 9 of the Constitution of the State of Tennessee, as amended, a proposal for amending the Charter of the City, as set forth in this ordinance, shall be published and submitted by the City of Memphis to its qualified voters at the first state general election, which shall be held in the City of Memphis on August 1, 2024, and which shall be held at least sixty (60) days after such publication.

Section 2. Publication of Home Rule Amendment as required by Tennessee Constitution.

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to cause this Ordinance, as finally adopted, to be published pursuant to provisions of Article XI, Section 9 of the Constitution of the State of Tennessee immediately after adoption by the City Council.

Section 3. Certification and Delivery to Election Commission.

BE IT FURTHER ORDAINED, That upon the adoption of this Ordinance becoming effective as required by law, the Comptroller of the City of Memphis shall immediately certify adoption of this Ordinance and deliver a certified copy thereof to the Shelby County Election Commission in charge of holding the general State election on August 1, 2024, and shall request that the proposed amendment to the Home Rule Charter of the City of Memphis, in the preferred form set forth in this Ordinance, be placed on the ballot.

Section 4. Proposal and preference.

BE IT FURTHER ORDAINED, That the City Council does hereby adopt the suggested proposal and form of question to be placed on the ballot for a referendum vote on a Home Rule Amendment to the Charter of the City of Memphis in a State General election to be held on the 1st day of August 2024, which question(s) shall read as follows:

QUESTION:

Shall the Charter of the City of Memphis be amended to read:

1. No person shall be allowed to carry a handgun in the City of Memphis without possessing a valid handgun carry permit.
2. No person shall be allowed to carry, store, or travel with a handgun in a vehicle in the City of Memphis without possessing a valid handgun permit.
3. It shall be unlawful for a person to store a firearm, whether loaded or unloaded, or firearm ammunition, in a motor vehicle or boat while the person is not in the motor vehicle or boat unless the firearm or firearm ammunition is kept from ordinary observation and locked within the trunk, utility or glove box, or a locked container securely affixed to the motor vehicle or boat.

I, Shirley Ford, Director of Finance for the City of Memphis do hereby certify that the foregoing amendment shall have no impact on the annual revenues and expenditures of the City.

FOR THE AMENDMENT	(YES) _____
AGAINST THE AMENDMENT	(NO) _____

QUESTION:

Shall the Charter of the City of Memphis be amended to read:

1. The citizens of Memphis hereby find and declare that the proliferation and use of assault weapons pose a threat to the health, safety, and security of all citizens of Memphis.
2. Hereafter, it shall be unlawful and prohibited for a person to possess or carry, openly or concealed, any assault rifles in the City of Memphis. Persons with valid handgun permits are exempt from this restriction when possessing or carrying an assault rifle on their privately owned property or at a shooting range.
3. Hereafter, the commercial sale of assault rifles within the City of Memphis is unlawful and is hereby prohibited.
4. The provisions of this Chapter shall not apply to the commercial sale of assault rifles to:
 - 4.1 Any federal, state, local law enforcement agency;
 - 4.2 The United States Armed Forces or department or agency of the United States;
 - 4.3 Tennessee National Guard, or a department, agency, or political subdivision of a state; or
 - 4.4 A Law Enforcement Officer.

5. Pre-existing owners that can demonstrate that the commercial sale of an assault rifle was completed prior to the Effective Date of January 1, 2025, which means that prior to January 1, 2025, the purchaser completed an application, passed a background check, and has a receipt or purchase order for said purchase, without regard to whether the purchaser has actual physical possession of the Assault Rifle, shall be considered a pre-existing purchaser.

I, Shirley Ford, Director of Finance for the City of Memphis do hereby certify that the foregoing amendment shall have no impact on the annual revenues and expenditures of the City.

FOR THE AMENDMENT	(YES) _____
AGAINST THE AMENDMENT	(NO) _____

QUESTION:

Shall the Charter of the City of Memphis be amended to read:

Section 1. EXTREME RISK PROTECTION ORDERS

A. Definitions

1. “Petitioner” means:

- (A) A law enforcement officer or agency, including an attorney for the state;
- (B) A member of the family of the respondent, which shall be understood to mean a parent, spouse, child, or sibling of the respondent;
- (C) A member of the household of the respondent;
- (D) A dating or intimate partner of the respondent;
- (E) A health care provider who has provided health services to the respondent;
- (F) An official of a school or school system in which the respondent is enrolled or has been enrolled within the preceding month;

2. “Respondent” means the person against whom an order under Section 2 or 3 has been sought or granted.

B. Types of Orders

1. The petitioner may apply for an emergency ex parte order as provided in Section 2 or an order following a hearing as provided in Section 3.

Section 2. EMERGENCY EX PARTE ORDER

(a) Basis for Order. The court shall issue an emergency ex parte extreme risk protection order upon submission of an application by a petitioner, supported by an affidavit or sworn oral statement of the petitioner or other witness, that provides specific facts establishing probable cause that the respondent's possession or receipt of a firearm will pose a significant danger or extreme risk of personal injury or death to the respondent or another person. The court shall take up and decide such an application on the day it is submitted, or if review and decision of the application on the same day is not feasible, then as quickly as possible but in no case later than forty-eight hours.

(b) Content of Order. An order issued under this section shall,

(1) prohibit the respondent from possessing, using, purchasing, manufacturing, or otherwise receiving a firearm;

(2) order the respondent to provisionally surrender any firearms in his or her possession or control, and any license or permit allowing the respondent to possess or acquire a firearm, to any law enforcement officer presenting the order or to a law enforcement agency as directed by the officer or the order; and

(3) inform the respondent of the time and place of the hearing under Section 3 to determine whether he or she will be subject to a continuing prohibition on possessing and acquiring firearms.

(c) Search and Seizure.

(1) If the application and its supporting affidavit or statement establish probable cause that the respondent has access to a firearm, on his or her person or in an identified place, the court shall concurrently issue a warrant authorizing a law enforcement agency to search the person of the respondent and any such place for firearms and to seize any firearm therein to which the respondent would have access.

(2) The court may subsequently issue additional search warrants of this nature based on probable cause that the respondent has retained, acquired, or gained access to firearm while an order under this section remains in effect.

(3) If the owner of a firearm seized pursuant to this subsection is a person other than the respondent, the owner may secure the return of the firearm as provided in Section 3(c)(3).

(d) Time for Service and Searches. The responsible law enforcement agency shall serve the order on the respondent and carry out any search authorized under subsection (c)(1), promptly following issuance of the order. If a search is authorized under subsection (c)(1), the agency may serve the order on the respondent concurrently with or after the execution of the search.

SEC. 3. ORDER AFTER HEARING

(a) Order After Hearing. Upon application for an extreme risk protection order, supported by an affidavit or sworn oral statement of the petitioner or other witness that provides specific facts giving rise to the concern about the significant danger or extreme risk described in Section 2, the court may issue an order under this section, which shall be effective for a period of one (1) year after a hearing. An order issued under this section shall,

(1) prohibit the respondent from possessing, using, purchasing, or otherwise receiving a firearm; and

(2) order the respondent to surrender any firearm in his or her possession or control, and any license or permit allowing the respondent to possess or acquire a firearm, to any law enforcement officer presenting the order or to a law enforcement agency as directed by the officer or the order.

(b) Basis for order. The court shall issue such an order based on a preponderance of the evidence that the respondent's possession or receipt of a firearm will pose a significant danger or extreme risk of personal injury or death to the respondent or another person. In determining the satisfaction of this requirement, the court shall consider all relevant facts and circumstances after reviewing the petitioner's application and conducting the hearing described in Section 2(d). The court may order a psychological evaluation of the respondent, including voluntary or involuntary commitment of the respondent for purposes of such an evaluation, to the extent authorized by other law.

(c) Search and Seizure.

(1) If the evidence presented at the hearing establishes probable cause that the respondent has access to a firearm, on his or her person or in an identified place, the court shall concurrently issue a warrant authorizing a law enforcement agency to search the person of the respondent and any such place for firearms and to seize any firearm therein to which the respondent would have access.

(2) The court may subsequently issue additional search warrants of this nature based on probable cause that the respondent has retained, acquired, or gained access to a firearm while an order under this section remains in effect.

(3) If the owner of a firearm seized pursuant to this subsection is a person other than the respondent, the owner may secure the prompt return of the firearm by providing an affidavit to the law enforcement agency affirming his or her ownership of the firearm and providing assurance that he or she will safeguard the firearm against access by the respondent. The law enforcement agency shall return the firearm to the owner upon its confirmation, including by a check of the National Instant Criminal Background Check System and the applicable state firearm background check system, that the owner is not legally disqualified from possessing or receiving the firearm.

(d) Time for Hearings and Service.

(1) A hearing under this section shall be held within three (3) days of the filing of the application, or within one (1) day of the issuance of an emergency ex parte order under Section 2, if such an order is issued. The responsible law enforcement agency shall serve notice of the hearing on the respondent promptly after the filing of the application or issuance of an emergency ex parte order, but notice may be provided by publication or mailing if the respondent cannot be personally served within the specified period. The respondent shall be entitled to one continuance of up to two (2) days on request, and the court may thereafter grant an additional continuance or continuances for good cause. Any emergency ex parte order under Section 2 shall remain in effect until the hearing is held. The court may temporarily extend the emergency order at the hearing, pending a decision on a final order.

(2) The responsible law enforcement agency shall serve an order issued under this section on the respondent and carry out any search authorized under subsection (c)(1), promptly following issuance of the order. If a search is authorized under subsection (c)(1), the agency may serve the order on the respondent concurrently with or after the execution of the search.

(e) Termination and Renewal of Orders.

(1) A respondent may file a motion to terminate an order under Section 3 one time during the effective period of that order. The respondent shall have the burden of proving, by the same standard of proof required for issuance of such an order, that he or she does not pose a significant danger or extreme risk of personal injury or death to himself or herself or another.

(2) The petitioner may seek renewals of an order under this section for an additional six (6) months at any time preceding its expiration. Renewals after the initial order shall be granted subject to the same standards and requirements as an initial order. The preceding order shall remain in effect until the renewal hearing is held and the court grants or denies a renewed order.

(3) If the respondent fails to appear at, or cannot be personally served in relation to, any hearing or renewal hearing under this section, the default does not affect the court's authority to issue an order or entitle the respondent to challenge the order prior to its expiration. The order will lapse after one (1) year if no eligible petitioner seeks its renewal.

SEC. 4. ENTRY INTO BACKGROUND CHECK SYSTEMS

The court shall forward any order issued under Section 2 or 3 to an appropriate law enforcement agency on the day it is issued. Upon receipt of an order under Section 3, the law enforcement agency shall make the order available to the National Instant Criminal Background Check System and any state system used to identify persons who are prohibited from possessing firearms.

SEC. 5. VIOLATIONS

The following persons shall be in violation of the City Code of Ordinances:

(1) **FILER OF FALSE OR HARASSING APPLICATION.** – Any person filing an application under Section 2 or 3 containing information that he or she knows to be materially false, or for the purpose of harassing the respondent.

(2) **RESPONDENT NOT COMPLYING WITH ORDER.** – Any person who knowingly violates an order under Section 2 or 3, including by possessing or acquiring a firearm in violation of the order or failing to surrender a firearm as required by the order.

(3) **PROVIDER OF PROHIBITED ACCESS TO RESPONDENT.** – Any person who knowingly provides the subject of an order under Section 2 or 3 access to a firearm, in violation of an assurance the person has provided in an affidavit under Section 2(c)(3) or 3(c)(3) that he or she will safeguard the firearm against access by the respondent.

I, Shirley Ford, Director of Finance for the City of Memphis do hereby certify that the foregoing amendment shall have no impact on the annual revenues and expenditures of the City.

FOR THE AMENDMENT	(YES) _____
AGAINST THE AMENDMENT	(NO) _____

Section 5. Effective Date of Charter Amendment.

BE IT FURTHER ORDAINED, That this Ordinance shall take effect for the purposes set forth herein on January 1, 2025, after approval by a majority of the qualified voters voting thereon in an election to be held on the 1st day of August 2024, the public welfare, requiring it.

Section 6. Certification of Results.

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify the result of said election on the referendum question to the Comptroller of the City of Memphis, who shall see that said result is made a part of the Minutes of the Council of the City of Memphis.

Section 7. Nonconflicting – Conflicting Laws.

BE IT FURTHER ORDAINED, That from and after the effective date of this Home Rule Amendment, all laws constituting the present Charter of the City of Memphis in conflict with the subject matter of this amendatory Home Rule Ordinance shall be immediately annulled, vacated, and repealed and all laws constituting the present Charter of the City of Memphis not in conflict

with this amendatory Home Rule Ordinance, be and the same are here continued in full force and effect.

Section 8. Severability.

BE IT FURTHER ORDAINED, that if any clause, section, paragraph, sentence or part of this Ordinance shall be held or declared to be unconstitutional and void, it shall not affect the remaining parts of this Ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this Ordinance notwithstanding the parts so held to be invalid, if any.

Section 9. Publication as Required by the City Charter.

BE IT FURTHER ORDAINED, that this Ordinance shall also be published by the Comptroller at the same time and manner as required by the City's Charter for all ordinances adopted by the City Council.

Section 10. Enactment of Referendum Ordinance.

BE IT FURTHER ORDAINED, that the adoption of this Referendum Ordinance shall take effect from and after the date it shall have passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

SPONSORS

JB Smiley, Jr.
Jeff Warren

CHAIRMAN

Martavius Jones

Summary for Presentation:

Amendments for Police and Fire:

Sections 4-25-17, 4-25-160 and 4-25-212:

There are three categories:

1. Police and Fire hired after July 1, 2023 (new hires): Upon hire these police and fire will have the opportunity to elect either the 1978 plan or the 2016 plan.
2. Police and Fire who were hired on or after July 1, 2016 but prior to July 1, 2023 who are currently participating in the 2016 plan: These police and fire will have the opportunity to transfer to the 1978 Plan.
3. Police and Fire who terminated employment under the 1978 plan and received a refund: Upon rehire on or after July 1, 2016 and election under this ordinance to return to the 1978 plan these police and fire will have the opportunity to return their refund with interest to the 1978 Pension System and participate in the 1978 Plan rather than the 2016 Plan.

Other Amendments:

Section 4-25-(1) 11

1. clarifies that backpay is included in the pension formula in the year to which the backpay relates, not the year the backpay is paid.
2. The plan has always excluded overtime from the pension formula. For clarity this amendment defines overtime

Section 4-25-1(30)

Since the 2016 plan is an account balance plan where the pension benefit is calculated on the account balance rather than a pension formula, this amendment clarifies there is no actuarial reduction of benefit on a 25-year retirement like there is in the 1978 plan.

Section 4-25-2

This amendment provides that one of the five employee members of the Pension Board must be a 2016 plan participant

Section 4-25-48

This amendment incorporates into the plan the state law that a pension is forfeited if a participant is convicted of felony that constitutes malfeasance in office

Section 4-25-192, 4-25-194, 4-25-253, and 4-25-254

Under current law if a participant divorces but fails to change his/her beneficiary designation from the former spouse, the former spouse can receive the deceased participant's pension. This amendment provides that divorce terminates the former spouse's rights as a beneficiary unless after the divorce the participant executes a new beneficiary designation naming the former spouse as beneficiary.

1. **Sec. 4-25-212** shall be amended and restated in its entirety and the following ~~–deleted in its entirety and the following~~ Section 4-25-~~212~~192 ~~subsection “B”~~ substituted therefor:

Except as provided in section 4-25-211(B), any former participant under this 2016 plan or the 1978 plan, as amended in 2012, or the 1948 plan of this chapter who is reemployed as an employee shall enter this 2016 plan as a participant upon his/her reemployment commencement date. His/her years of service shall be determined as provided under section 4-25-1(45).

Notwithstanding the foregoing, a police officer or firefighter who was a participant in the 1978 Plan who terminated employment prior to July 1, 2016 and received a lump sum withdrawal or refund of employee contributions pursuant section 4-25-185 of the 1978 Plan, who is reemployed as a police officer or firefighter on or after July 1, 2016 but elected in accordance with Section 4-25-160 to participate in the 1978 Plan on or after July 1, 2023 shall have the right to be a participant in the 1978 Plan upon such reemployment provided such police officer or firefighter (i) elects in writing in the manner, method, within the time limit, and on such forms as prescribed by the board to repay the trust as provided below; and (ii) such participant repays in full to the trust pursuant to such election in a single lump sum an amount equal to the withdrawal or refunded amount with compounded interest, from the date of withdrawal or refund to the date of repayment, at the rate established by the board. Upon fulfillment of all conditions above (i) such participant shall be an Employee for purposes of Section 1-25-1(17), (ii) such participant shall be a participant in the City of Memphis Retirement System for General Employees, including police officers and firefighters, under City Ordinance Chapter 25, Articles I through VII, Division 2, as applicable, and shall not participate in the 2016 plan, and (iii) the years of service of such participant in the 1978 Plan prior to the participant’s termination of employment that would otherwise be disregarded because of his/her prior termination of employment shall be restored. Absent fulfillment of the conditions above such police officer or firefighter upon his/her reemployment shall enter this 2016 Plan.

**An Ordinance to Amend Chapter 25—Pension and Retirement System
of the City of Memphis, Tennessee**

WHEREAS, the City of Memphis, Tennessee (the “Employer”) has adopted a defined benefit retirement plan known as City of Memphis Retirement System for General Employees, including police officers and firefighters, as subsequently amended and restated from time to time, and consisting of a 1948 plan (that part of the plan benefiting employees participating under the provisions of sections 4-25-60 through 4-25-99) and a 1978 plan (that part of the plan benefiting employees participating under the provisions of sections 4-25-160 through 4-25-199), as amended in 2012, and a 2016 plan (that part of the plan benefiting employees participating under the provisions of sections through 4-25-210 through 4-25-274), currently codified and established under City Ordinance Chapter 25, Articles I through VII, Division 1 and Division 2 and Division 3 (collectively, “the Pension System”); and

WHEREAS, the Employer desires to amend the Pension System as provided herein,

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEMPHIS that the Pension and Retirement System of the City of Memphis be amended as follows:

1. Sec. 4-25-1(11) *Compensation* shall be amended by addition of the following subparagraph as subparagraph (e) and subparagraph (f) thereto:

(e) *Back pay*. For purposes of determining average monthly compensation under section 4-25-1(1), and section 4-25-1(4) pay awarded by an administrative agency or court or pursuant to a bona fide agreement by the city to compensate a participant for lost wages shall be credited as pay to each individual year to which the award or agreement for back pay pertains, rather than to the year in which the award, agreement or payment is made.

(f). *Overtime pay*. For purposes of determining average monthly compensation under section 4-25-1(1) and section 4-25-1(4) “overtime pay” constitutes pay in excess of forty (40) hours a week regardless of the rate for which such hours are paid.

2. Sec. 4-25-1(17) *References, construction and definitions - Employee* as presently written shall be amended and restated in its entirety and the following provision shall be substituted in lieu thereof:

17. *Employee* means, except for any such employee who is eligible to make and has duly made the election provided in sections 4-25-160(E) and 4-25-160(F) hereof, any person hired on or before June 30, 2016, but who as of June 30, 2016 has seven and one-half (7.5) or more years of service with the city and who was

on June 30, 2016 a participant in the City of Memphis Retirement System for General Employees, including police officers and firefighters, under City Ordinance Chapter 25, Articles I through VII, in the regular, full-time employ of the city to the extent that the city contributes to the salary of such employee in a job classification or title that the city administration shall designate as eligible for participation in the plan, including any person who is elected to his/her office by the people, but not including the light, gas and water division of the city, temporary employees as classified by the city, part-time employees, or any employee mandated by law to contribute to the federal Social Security system and not eligible to be a participant by his/her job classification.

The term “*employee*” shall also not include any person who is a leased employee within the meaning of code section 414(n). Leased employee means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person (“leasing organization”) has performed services for the recipient (or for the recipient and related persons determined in accordance with code section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee (unless otherwise specifically covered by the pension system) of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least ten percent of compensation, as defined in code section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludible from the employee's gross income under code section 125, code section 1320, code section 401(k), code section 402(h) or code section 403(b), (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20 percent of the recipient's non-highly compensated workforce.

3. **Sec. 4-25-1(30) Normal retirement date** shall be amended by addition thereto as subsection (d) the following subsection (d) to read as follows:

d. *2016 Plan*. “Normal retirement date” for participants of the 2016 Cash Balance Plan/Defined Contribution Plan means:

i. General employees: the first day of the month coincident with or next following earliest date on which the participant, other than a commissioned police officer or firefighter:

Attains:

(A) Age 65 and completes five years of service; or

(B) Twenty-five (25) years of service and submits a written election designating the date he or she will retire not less than 30 days before such designated date.

- ii. Police officers and firefighters: the first day of the month coincident with or next following earliest date on which the participant:

Attains:

(A) Age 55 and ten years of service; or

(B) Twenty-five (25) years of service and submits a written election designating the date he or she will retire not less than 30 days before such designated date.

- 4. **Sec. 4-25-2 Board of Administration created; composition; election and term of members**, as presently written shall be repealed in its entirety and the following provision shall be substituted in lieu thereof and designated as Section Sec. 4-25-2:

Sec. 4-25-2 – Board of Administration created; composition; election and terms of members.

There is created and established a board of administration which, under the provisions of this title and the direction of the mayor, shall administer the plan and the trust fund created by this title. The board shall consist of the mayor or the mayor's designee, the officer in charge of the division of personnel or that officer's designee, the comptroller, four employees of the city with at least ten years of service, one employee of the city who is a participant in the 2016 plan with at least four years of service, a citizen member of the city, a retiree of the plan, and a member of the city council. The member of city council shall be an ex officio member without a vote. The officer in charge of the division of personnel or that officer's designee shall be an ex officio member without a vote. The employee, citizen and retiree members of the board shall be appointed on the first Tuesday in December in odd-numbered years by the council on the recommendation of the mayor, for two year appointments which shall begin on the January 1 next following the appointments. The council member of the board shall be the chair of the city council or the chair's designee, who will be appointed each December, to serve for one year beginning on the January 1 next following the appointments. Each of the employee, citizen, retiree member, and city council member of the board shall serve until his or her successor is duly appointed. Vacancies during the term of any employee, citizen, retiree and/or city council member shall be filled by appointment in the same manner as provided for the original appointment except that such appointment shall be made as soon as reasonably feasible after such vacancy occurs (regardless of the year or when in the year such vacancy occurs). The term of such member shall begin effective immediately upon such

appointment, and such member so appointed shall serve for the unexpired term of the original member or until a successor to such member is duly appointed. Until a vacancy is filled as provided herein the action of a quorum of the members as provided in section 4-25-7 shall be and constitute a valid and binding action of the board notwithstanding that a position is vacant.

5. **Sec. 4-25-48** shall be added as follows:

Sec. 4-25-48. Disqualified Participants. Any participant who is convicted in any state or federal court of a felony arising out of the participant's employment or official capacity with the city constituting malfeasance in office shall forfeit the participant's retirement pension benefits hereunder. Such participant's rights shall be governed by Sec. 8-36-918 of the Tennessee Code Annotated, as amended, and any successor statute thereto.

6. **Sec. 4-25-160 Participation** shall be amended by addition thereto as subsection (F) the following subsection (F) to read as follows:

F. Commissioned Police Officer, Firefighter, Police Dispatcher, or Fire Dispatcher.

1. *Hire dates on or after July 1, 2023.* Each employee who is hired on or after July 1, 2023 as a commissioned police officer, firefighter, police dispatcher, or fire dispatcher (for purposes of this subsection referred to as an "eligible public safety employee") may make a one-time irrevocable election upon the eligible public safety employee's date of hire in the form and manner and within the time prescribed by the Board to opt out of participation in the 2016 Plan and elect in lieu thereof to participate in the 1978 Plan provided that the rate of employee contributions required of the eligible public safety employee is identical in each Plan regardless of participation in the 1978 Plan or 2016 Plan.
2. *Hire dates between February 15, 2021 and July 1, 2023.* Provided that the rate of employee contributions required of the eligible employee is identical in each Plan regardless of participation in the 1978 Plan or 2016 Plan, each employee who is hired as a commissioned police officer, firefighter, police dispatcher, or fire dispatcher on or after February 15, 2021 and prior to July 1, 2023 who meets each and all of the following listed criteria may make a one-time irrevocable election in the form and manner and within the time prescribed by the Board to have his or her entire 2016 Plan cash balance account plus his or her entire 2016 defined contribution plan account balance transferred to the 1978 Plan, whereupon his or her participation in the 2016 Plan and any and all rights and benefits thereunder shall cease and such participant shall participate in the 1978 Plan, the same as if he or she had never participated in the 2016 Plan. To make such election, such participant must meet each and all of the following criteria:

- a. Since such employee's date of hire such employee has continuously been employed by the city in full-time employment as a commissioned police officer, firefighter, police dispatcher, or fire dispatcher;
 - b. Such employee has not experienced a severance date as such term is defined in section 4-25-1(39); and
 - c. Such employee has not withdrawn any amount of his or her cash balance account or separate defined contribution plan account from the 2016 Plan.
3. As required by T.C.A. §9-3-506(a)(3) and the Comptroller of the State of Tennessee, the pension benefits of the eligible employees making the irrevocable election provided in this subsection (F) shall be funded by and only to the extent of the city contribution to the cost of the pension benefits that would otherwise have accrued for such employees in the 2016 Plan plus the available funds allocated for the cost of pension benefits of these employees in the Special Revenue Fund created pursuant to the referendum passed October 3, 2019 increasing the sales and use tax in the City of Memphis by 0.5% from 2.25% to 2.75% to restore pension benefits of public safety employees from and after the date of such referendum. In the event the cost of the pension benefits for the eligible employees making the irrevocable election provided in this subsection (F) in the 1978 Plan in any Plan Year (based on the city's funding policy in effect for such Plan Year adopted pursuant to T.C.A. §9-3-504, as amended) exceeds: (i) the cost of the pension benefits for these employees had they participated in the 2016 Plan (based on the city's funding policy in effect for such plan year adopted pursuant to T.C.A. §9-3-504, as amended) rather than the 1978 Plan, plus (ii) the city's required 1.5% of compensation defined contribution plan contribution otherwise allocable to 2016 plan defined contribution accounts of these employees (as provided in section 4- 25-231) had they participated in the 2016 Plan rather than the 1978 Plan, plus (iii) the amount allocated in the Special Revenue Fund for the cost of the pension benefits for public safety employees in the 1978 Plan, then the following steps shall automatically apply in determining the pension benefit of such eligible public safety employees for such Plan Year:
 - a. The retirement allowance formula for the pension benefit of these employees for such Plan Year will be reduced from 2.25% or 2.50%, as applicable, in ten basis point increments, to such lesser amount (but not below zero) as is necessary so that the costs of benefits for these employees does not exceed does not exceed the sum of (i), (ii), and (iii) immediately above;
 - b. The adjustment provided above shall be effective as of July 1 next following the determination of the cost of benefits, and shall not

reduce the accrued pension benefit of any such eligible public safety employee earned immediately prior to the effective date of the adjustment.

4. The elections provided in this subsection (F) once made shall be irrevocable and may not be subsequently modified or rescinded by the employee. If an employee eligible to make an election hereunder makes such an election as provided herein, all rights and benefits upon subsequent retirement or other termination of employment of such employee shall be governed solely and exclusively by the terms and provisions of the plan to which the employee elected and such employee shall have no rights under any other plan of the pension system.

7. **Sec. 4-25-192 Refund upon death** subsection "B" shall be deleted in its entirety and the following Section 4-25-192 subsection "B" substituted therefor as subsection "B":

B. The beneficiaries of the refund under subsection A of this section shall be the person so designated by the participant in writing, or, if no such designation, his or her estate. Notwithstanding the foregoing, however, a final divorce decree shall terminate an ex-spouse's status as beneficiary, unless the participant has on file in the Retirement Office a beneficiary designation that redesignates the ex-spouse as beneficiary dated subsequent to the issuance of the divorce decree.

8. **Sec. 4-25-194 Residual benefits and refund of employee contributions** subsection "b" shall be deleted in its entirety and the following Section 4-25-194 subsection "b" substituted therefor as subsection "b":

b. For a participant whose employment terminates due to death, whose beneficiaries are not entitled to any benefit under any other section of this plan, such participant's beneficiaries, in the order specified below, shall be entitled to receive a refund of the participant's contributions, less the aggregate of any amount of such contributions paid to the participant, the participant's spouse, children or any other designated beneficiary, prior to the participant's death. The beneficiaries of the benefit under this section (or in the case of residual benefits the beneficiaries of any residual benefits under section 4-25-194(a) hereof) shall be:

(i) the beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board). Notwithstanding the foregoing to the contrary, if the participant is married at the time of such designation, if the beneficiary or beneficiaries designated by the participant is not the participant's spouse, the participant's spouse's written consent to such specific beneficiary or beneficiaries shall be required for such designation to be effective, and such consent shall be witnessed by a notary public or by the Benefits Manager of the City, the Total Rewards Officer of the city, or such other person representing the Board as duly

designated by the Board. A participant's spouse may give a general consent acknowledging the spouse's right to consent to any beneficiary or beneficiaries and relinquishing such right, in which event any future revocation and/or redesignation of beneficiary(ies) by the participant shall not require further spousal consent. The consent of the spouse must acknowledge the effect of such election and, once given, cannot be revoked by such spouse. Any spousal consent shall only be applicable to the spouse granting such consent, or

(ii) the participant's spouse, if married to the participant at the time of his/her death, or

(iii) if no such spouse, the participant's surviving child and handicapped child, as those terms are defined in section 4-25-1(6), or

(iv) if no such surviving child and/or handicapped child, to the participant's surviving child as the term "child" is defined in section 4-25-1(6) but without regard to the child's age or status in an educational institution, or

(v) if no such surviving child to the alternative beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board) or

(vi) if the participant failed to designate an alternate beneficiary or beneficiaries as provided above, to the participant's estate.

If there is more than one eligible beneficiary the benefit shall be divided equally among the eligible beneficiaries unless the beneficiaries are designated beneficiaries by the participant as provided above whereupon the benefit will be divided in accordance with the designation by the participant, or if no such designation then equally. For purposes of this section, the terms "spouse" and "child" shall mean any person who the Board determines in good faith under the plan is the legally recognized spouse or child of the participant. Notwithstanding the foregoing, a final divorce decree shall terminate an ex-spouse's status as beneficiary, unless the participant has on file in the Retirement Office a beneficiary designation that redesignates the ex-spouse as beneficiary dated subsequent to the issuance of the divorce decree. Each beneficiary, or his/her duly appointed representative, shall be responsible for making application, in accordance with uniform procedures established by the Board, for any benefit due him/her under this section. A beneficiary shall have no claim against the Board, or the pension system, or the city by reason of the failure of such beneficiary to apply properly or timely for benefits under the pension system.

9. **Sec. 4-25-212** shall be amended and restated in its entirety and the following deleted in its entirety and the following Section 4-25-192 subsection "B" substituted therefor:

Except as provided in section 4-25-211(B), any former participant under this 2016 plan or the 1978 plan, as amended in 2012, or the 1948 plan of this chapter who is reemployed as an employee shall enter this 2016 plan as a participant upon his/her reemployment commencement date. His/her years of service shall be determined as provided under section 4-25-1(45).

Notwithstanding the foregoing, a police officer or firefighter who was a participant in the 1978 Plan who terminated employment prior to July 1, 2016 and received a lump sum withdrawal or refund of employee contributions pursuant section 4-25-185 of the 1978 Plan, and who is reemployed as a police officer or firefighter on or after July 1, 2023 shall have the right to be a participant in the 1978 Plan upon such reemployment provided such police officer or firefighter (i) elects in writing in the manner, method, within the time limit, and on such forms as prescribed by the board to repay the trust as provided below; and (ii) such participant repays in full to the trust pursuant to such election in a single lump sum an amount equal to the withdrawal or refunded amount with compounded interest, from the date of withdrawal or refund to the date of repayment, at the rate established by the board. Upon fulfillment of all conditions above (i) such participant shall be an Employee for purposes of Section 1-25-1(17), (ii) such participant shall be a participant in the City of Memphis Retirement System for General Employees, including police officers and firefighters, under City Ordinance Chapter 25, Articles I through VII, Division 2, as applicable, and shall not participate in the 2016 plan, and (iii) the years of service of such participant in the 1978 Plan prior to the participant's termination of employment that would otherwise be disregarded because of his/her prior termination of employment shall be restored. Absent fulfillment of the conditions above such police officer or firefighter upon his/her reemployment shall enter this 2016 Plan.

10. Sec. 4-25-253 *Residual benefits* shall be deleted in its entirety and the following Section 4-25-253 substituted therefor:

Notwithstanding any other sections of this 2016 plan, a participant's beneficiaries, in the order of priority as set forth in section 4-25-254 hereof, shall be paid any excess of the participant's total accumulated employee contributions, minus the aggregate total retirement and death benefit payments under this 2016 plan made to the participant, the participant's spouse, children, or any other designated beneficiary, following the death of all such individuals. Notwithstanding the foregoing, however, a final divorce decree shall terminate an ex-spouse's status as beneficiary, unless the participant has on file in the Retirement Office a beneficiary designation that redesignates the ex-spouse as beneficiary dated subsequent to the issuance of the divorce decree.

11. **Sec. 4-25-254** *Employee contributions refund upon death* subsection “B” shall be deleted in its entirety and the following Section 4-25-254:

For a participant whose employment terminates due to death, whose beneficiaries are not entitled to any benefit under any other section of this plan, such participant's beneficiaries, in the order specified below, shall be entitled to receive a refund of the participant's contributions, less the aggregate of any amount of such contributions paid to the participant, the participant's spouse, children or any other designated beneficiary, prior to the participant's death. The beneficiaries of the benefit under this section (or in the case of residual benefits the beneficiaries of any residual benefits under section 4-28-20(A) hereof) shall be:

(i) the beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the board). Notwithstanding the foregoing to the contrary, if the participant is married at the time of such designation, if the beneficiary or beneficiaries designated by the participant is not the participant's spouse, the participant's spouse's written consent to such specific beneficiary or beneficiaries shall be required for such designation to be effective, and such consent shall be witnessed by a notary public or by the benefits manager of the city, the total rewards officer of the city, or such other person representing the board as duly designated by the board. A participant's spouse may give a general consent acknowledging the spouse's right to consent to any beneficiary or beneficiaries and relinquishing such right, in which event any future revocation and/or redesignation of beneficiary(ies) by the participant shall not require further spousal consent. The consent of the spouse must acknowledge the effect of such election and, once given, cannot be revoked by such spouse. Any spousal consent shall only be applicable to the spouse granting such consent, or

(ii) the participant's spouse, if married to the participant at the time of his/her death, or

(iii) if no such spouse, the participant's surviving child and handicapped child, as those terms are defined in section 4-25-1(6), or

(iv) if no such surviving child and/or handicapped child, to the participant's surviving child as the term "child" is defined in section 4-25-1(6) but without regard to the child's age or status in an educational institution, or

(v) if no such surviving child to the alternative beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board) or

(vi) if the participant failed to designate an alternate beneficiary or beneficiaries as provided above, to the participant's estate.

If there is more than one eligible beneficiary the benefit shall be divided equally among the eligible beneficiaries unless the beneficiaries are designated beneficiaries by the participant as provided above whereupon the benefit will be divided in accordance with the designation by the participant, or if no such designation then equally. For purposes of this section, the terms "spouse" and "child" shall mean any person who the Board determines in good faith under the plan is the legally recognized spouse or child of the participant. Notwithstanding the foregoing, a final divorce decree shall terminate an ex-spouse's status as beneficiary, unless the participant has on file in the Retirement Office a beneficiary designation that redesignates the ex-spouse as beneficiary dated subsequent to the issuance of the divorce decree. Each beneficiary, or his/her duly appointed representative, shall be responsible for making application, in accordance with uniform procedures established by the Board, for any benefit due him/her under this section. A beneficiary shall have no claim against the Board, or the pension system, or the city by reason of the failure of such beneficiary to apply properly or timely for benefits under the pension system.

SUPPLEMENTAL ADOPTING ORDINANCE
SUBSTITUTE ORDINANCE NO. 5843

***An Ordinance Supplementing and Amending the 2021 Memphis
Municipal Code of Ordinances of the City of Memphis,
Tennessee relative to Animals and Horse Drawn Carriages;
Providing for the Repeal of Certain Ordinances Not
Included herein; and Providing when such Amendments to the
Code and this Ordinance Shall Become Effective***

WHEREAS, the Council of the City of Memphis, as the City's legislative body, has the full power and authority under the Charter of the City to codify, revise and collect in the form of a code of ordinances of a general nature, and in doing so has the full power, to amend, alter, repeal or modify any ordinance of a general nature other than contract ordinances to conform such ordinances to the legislative intent of the Council before inclusion in said code;

WHEREAS, on February 15, 2022 the Council adopted a new Code of Ordinances, consisting of Titles 1 through 15, each inclusive, and the errata thereto, as the "2021 Code of Ordinances, City of Memphis, Tennessee" (the "2021 Code").

WHEREAS, due to the volume of ordinances to be considered and codified and the need to provide clear guidance to the City and its citizens, the City Attorney and the Council's Attorney the City Attorney and the Council's Attorney have only presented for codification two (2) Titles, namely "Title 1-General Provisions" and "Title 4-Pension and Retirement System.

WHEREAS, the Council has delegated to the City Attorney and the Council's Attorney the responsibility of making a thorough review of new and amending ordinances

adopted by the Council since September 1, 1985 for the purpose of producing for adoption by the City Council a new Official Code of Ordinances that accurately reflects the state of law of the City as of the date(s) of adoption by the City Council.

WHEREAS, the City Attorney and the Council's Attorney have been authorized and directed to periodically provide for adoption by the Council of supplementary codification ordinances to supplement the codification approved in Ordinance No. 5669.

WHEREAS, the Council desires to supplement the 2021 Code by adopting and codifying Titles 6-Business Licenses and Regulations and Title 8-Animals.

Be It Ordained by the Council of the City of Memphis That

Section 1. A Supplement to the 2021 Code of Ordinances, consisting of specific chapters in Titles 6 and 8, each inclusive, and the errata thereto, is hereby adopted and enacted. The specific chapters in Titles 6 and 8 relating to Horse Drawn Carriages and Animals as proposed for adoption are attached hereto and incorporated herein by reference.

Section 2. Upon adoption of this Supplemental Ordinance the titles and chapters of the 2021 Code so approved hereby shall supersede and replace all then existing general and permanent ordinances of the City to the extent included in such codified titles and chapters or to the extent such ordinances are inconsistent with the provisions of the titles and chapters so codified.

Section 3. All provisions of the Titles and Chapters of this Supplement to the 2021 Code adopted and codified by this ordinance shall be in full force and effect from and after this ordinance becomes effective, and all conflicting codes, provisions, chapters, sections, paragraphs and sentences of ordinances of a general and permanent nature in existence or enacted on final passage on or before the effective date of this ordinance, and not included in the 2021 Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this Ordinance.

Section 5. the codification of any ordinances pursuant to the Adopting Ordinance and this Supplemental Adopting Ordinance are required by the City's Charter to be recorded in a well-bound book kept by the City Comptroller.

Section 6. Any such codified ordinances as maintained by the City Comptroller may be relied on by the City or any person and may be read in evidence in any court of this State, unless there is a bona fide dispute as to the meaning of any such ordinance being consistent with the Council's intent. In any such case, the City Attorney shall present such ordinance(s) to the Council for a determination of the consistency of the ordinance(s) with the Council's intent as appearing in the record of its proceedings and for any further action that the Council deems appropriate in accordance with its authority under City Charter § 361.

Section 7. Three (3) copies of the 2021 Code, as supplemented hereby, shall be kept on file in the office of the comptroller preserved in loose-leaf form, or in such other form as the comptroller may consider most expedient. The comptroller is also authorized to contract with a nationally recognized legal code publication company for the official publication of the 2021 Code and supplements as approved by the Council. The comptroller is also authorized to contract with a nationally recognized legal code publication company for the unofficial republication of the 2021 Code and supplements as approved by the Council in electronic format.

Section 8. It shall be the express duty of the comptroller or someone authorized by him or her to insert in such copies and in their designated places all amendments or ordinances which the council has specifically codified and approved, from time to time, to be to made a part of the 2021 Code when the same have been printed or reprinted in page form, and to extract from such copies all provisions which may be from time to time repealed by the Council. Such copies shall be available for inspection in accordance with law by all persons desiring to examine the same.

Section 9. The provisions the 2021 Code as approved by the Council or any copy thereof which purports to be

published and maintained, in written or electronic form, by authority of the City of Memphis shall be conclusively held to be evidence of the law of the City of Memphis from and after the times of their passage, with respect to any subject or provisions contained therein, and no person shall be permitted to impeach any such code provision on the ground that it was not duly and regularly passed in accordance with the laws existing at the time of its passage. Any prior uncodified republications of ordinances of the City with respect to any subject or provisions contained in the 2021 Code shall not be read and accepted in evidence from and after the adoption of the Adopting Ordinance and any Supplemental Adopting Ordinances.

Section 10. The provisions the 2021 Code as approved by the Council, or any copy thereof which purports to be published by authority of the City of Memphis, may be read and accepted in evidence in any court in this State without further proof of its passage.

Section 11. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 12. Severability. The provisions of this Ordinance are hereby declared to be severable. If any of the sections, amendments, provisions, sentences, clauses, phrases, or parts hereof are held

unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 13. Effective Date. The provisions of this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSOR:
Carlisle

MARTAVIUS JONES
CHAIRMAN

Title 6 - BUSINESS LICENSES AND REGULATIONS

CHAPTER 1 HORSE-DRAWN CARRIAGES

DEFINITIONS

Sec. 6-1-1. Definitions.

POWERS OF DIRECTOR—REGULATIONS

Sec. 6-1-2. Rules and regulations of the director of police services relative to horse-drawn carriages.

Sec. 6-1-3. City treasurer—Powers; appeal of decisions.

Sec. 6-1-4. Duty of City Directors to enforce chapter.

Sec. 6-1-5. Certificate required; exceptions.

CERTIFICATION REQUIREMENTS

Sec. 6-1-6. Application for certificate.

Sec. 6-1-7. Standards for issuance of certificate.

Sec. 6-1-8. Certificate issued to owner only.

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Sec. 6-1-10. Business license.

Sec. 6-1-11. Insurance.

Sec. 6-1-12. Business to be conducted by certificate holder; agreement with drivers.

Sec. 6-1-13. Increase in number of carriages after issuance; enlargement of authority.

Sec. 6-1-14. Replacement of vehicles.

Sec. 6-1-15. Accident reports.

Sec. 6-1-16. Assignment or transfer of certificates.

Sec. 6-1-17. Expiration and renewal of the certificate.

Sec. 6-1-18. Fines, suspension and revocation of certificates.

Sec. 6-1-19. Horse-drawn carriage stands—Use by other vehicles prohibited.

DRIVERS AND CONDUCTORS

Sec. 6-1-20. Vehicle drivers.

Sec. 6-1-21. Application for a driver's permit.

Sec. 6-1-22. Application for a carriage driver's training permit.

Sec. 6-1-23. Applicant to fill out identification questionnaire and be fingerprinted.

Sec. 6-1-24. Investigation; issuance; not to issue to certain persons.

Sec. 6-1-25. Notification of arrest or indictment.

Sec. 6-1-26. Notification of company change of driver.

Sec. 6-1-27. Permit fee.

Sec. 6-1-28. Form, size, design and contents.

Sec. 6-1-29. Possession of permit.

Title 6 - BUSINESS LICENSES AND REGULATIONS
CHAPTER 6-1. - HORSE-DRAWN CARRIAGES

- Sec. 6-1-30. Expiration and renewal.
- Sec. 6-1-31. Fines, suspension and revocation of permit.
- Sec. 6-1-32. Unauthorized use of permit; defacing or removing permit.
- Sec. 6-1-33. Standards of appearance and conduct of drivers.
- Sec. 6-1-34. Total passengers in vehicle; carrying passengers on driver's seat prohibited.
- Sec. 6-1-35. Consent required for horse-drawn carriage driver to pick up additional passengers.
- Sec. 6-1-36. Drivers not to work more than 12 hours out of 24.
- Sec. 6-1-37. Solicitation of passengers by drivers; drivers to remain in or near carriage.
- Sec. 6-1-38. Drivers of horse-drawn carriages.

VEHICLES

- Sec. 6-1-39. Carriage safety equipment.
- Sec. 6-1-40. Television equipment.
- Sec. 6-1-41. Horse-drawn carriage maintenance.

LICENSING AND CARE OF ANIMALS

- Sec. 6-1-42. Licensing of Equines-Powers of Director of Animal Services
- Sec. 6-1-43. Proper Care of Licensed Equines.
- Sec. 6-1-44. Conditions of Use of Licensed Equines.
- Sec. 6-1-45. Equipment
- Sec. 6-1-46. Stalls and stables.

TITLE 6 – BUSINESS LICNESES AND REGULATIONS

CHAPTER 1. HORSE-DRAWN CARRIAGES

DEFINITIONS

Sec. 6-1-1. Definitions.

The following words and phrases when used in this chapter shall have the meaning as set out herein:

Certificate means a certificate of public convenience and necessity issued by the director of police services authorizing the holder hereof to conduct a horse-drawn carriage for hire business in the city.

Carriage means a horse-drawn carriage regularly used in the business of carrying passengers for a fare whether or not on a fixed route.

Director of animal services means the director of animal services of the city, or his or her authorized designee.

Director of police services means the director of police services of the city, or his or her authorized designee.

Driver shall be held to include every person in actual charge of the operation of a horse-drawn carriage.

Driver's permit means the permission granted by the director of police services to a person to drive a horse-drawn carriage for hire upon the streets of the city.

For hire means agreement to transport a person or persons for a fare.

Holder means a person to whom a certificate of public convenience and necessity has been issued.

Horse means any animal of the genus equus.

Owner means the person who has proved to the director of police services that he or she is the legal owner of the horse-drawn carriage.

Inspector shall be a Memphis police officer and/or any person designated by the Director of Animal Services, who has been authorized and instructed to watch and observe the conduct of holders of certificate of public convenience and necessity, drivers and licensed equines operating under this chapter. Upon discovering a violation of the provisions of this chapter, the inspector(s) will order or take appropriate action.

Person includes an individual, a corporation or other legal entity, a partnership, or any unincorporated association. Person must be a resident of the State of Tennessee or member of corporation recognized in Tennessee.

Stable means any place, establishment or facility where one or more horses are housed or maintained.

Stand. A horse-drawn carriage for hire stand is a place where the city engineer in concert with director of police services has authorized a holder of a certification of public convenience and necessity to park horse-drawn carriage for hire out of service awaiting a passenger.

Sticker means identifying sticker issued by the Memphis police department on authority of director of police services, to be displayed on rear of horse-drawn carriage next to identification plate. Sticker to be issued annually with certificate of convenience and necessity.

Veterinarian means a person licensed to practice veterinary medicine.

Work. A horse is considered working when it is out of the stable and at its carriage stand or place where it regularly picks up passengers. Work ends when the horse leaves its stand to go to the stable.

(Code 1985, § 39-71; Ord. No. 4227, § 1, 11-2-1993)

POWERS OF DIRECTOR—REGULATIONS

Sec. 6-1-2. Rules and regulations of the director of police services relative to horse-drawn carriages.

The director of police services is authorized and directed to make and enforce such additional rules and regulations, not in conflict with the provisions of this chapter, as the director may deem proper to regulate the operation of horse-drawn carriages for hire under a certificate issued pursuant to this chapter, provided that no regulation shall be made or enforced in conflict with this chapter or any other city ordinance.

(Code 1985, § 39-102; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-3. City treasurer—Powers; appeal of decisions.

- A. The city treasurer is vested with full and complete authority to issue, alter, deny, suspend or revoke certificates of public convenience and necessity and permits for drivers, as herein provided, and is further vested with the full and complete authority, duty and responsibility to carry into effect the provisions of this chapter. The city treasurer may designate an officer to render rulings or take all other actions herein granted to the city treasurer, as indicated by the city treasurer.
- B. The city treasurer or the city treasurer's designee shall conduct hearings on those matters requiring same. Decisions of the designee may be appealed by the applicant, the certificate holder, or driver within ten days after the decision affecting the person, by filing a written appeal with the city treasurer. The city treasurer may rule after a review of the record or may set a hearing as soon as practicable. Ten days' notice of a public hearing stating the time and place of the public hearing and the express terms or an informative summary of the subject matter of the public hearing provided for herein shall be given by publication in some newspaper published in the city, the cost thereof to be paid by the applicant or certificate holder.

C. An applicant, driver or certificate holder aggrieved by any final order or determination of the city treasurer in regard to the issuance, denial, suspension or revocation of that person's certificate or permit under this chapter may, within ten days after such denial, file with the comptroller a petition for review of the action of the city treasurer in denying the application, and it shall then be the duty of the city council to hold a public hearing and either grant or deny the application. In all such cases any interested party or holder of a certificate of necessity and convenience shall have a right to be heard; provided, further, that, in any such appeal to the city council, the decision of the city treasurer shall be prima facie correct.

(Code 1985, § 39-103; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-4. Duty of City Directors to enforce chapter.

The director of police services and/or the director of animal services or their respective designees (“Inspectors”) are authorized and are instructed to monitor the conduct of holders of certificates of a public convenience and necessity, drivers and licensed equines operating under this chapter. Upon discovering a violation of the provisions of this chapter, an Inspector shall take appropriate action. Any vehicle for hire may be inspected at the discretion of an Inspector at any time or location. Vehicles may be inspected for cosmetics, safety requirements, and are to include permits and license required to be held by the driver or any other inspection deemed necessary by an Inspector.

(Code 1985, § 39-104; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-5. Certificate required; exceptions.

A. No person shall operate or permit a horse-drawn carriage owned or controlled by him or her to be operated as a passenger vehicle for hire upon the streets of the city without first having obtained a certificate of public convenience and necessity from the director of police services.

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- B. This section shall not apply to passenger vehicles for hire operated under the jurisdiction of the public service commission of the state, or otherwise exempted.
- C. No more than 50 carriages may be permitted to operate upon the streets of Memphis and the permit office shall accept no applications for additional carriages once this maximum has been permitted. Other pending applications shall be dismissed upon the issuance of the 50th permit. Should the number of permitted carriages drop below the maximum allowed, applications will be considered in the order in which they are filed at the permit office.

(Code 1985, § 39-105; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002)

CERTIFICATION REQUIREMENTS

Sec. 6-1-6. Application for certificate.

- A. Any person, partnership or corporation desiring to secure a certificate of public convenience and necessity shall make application and pay a \$100.00 application fee to the city treasurer. The notarized application shall be filed with and dated by the city treasurer or his or her designee.
- B. The application for a certificate shall be upon a form provided by the city treasurer, or his or her designee. An applicant for a certificate, including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information:
1. Name and address including all aliases;
 2. Written proof that the individual is at least 18 years of age;
 3. All residential addresses of the applicant for the past five years;
 4. The trade name under which the applicant proposes to do business;

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5. The business, occupation or employment of the applicant for five years immediately preceding the date of application;
 6. The financial status of the applicant, including the amounts of all unpaid judgments against the applicant or, if a corporation, against any officer, director or shareholder as listed above or, if a partnership, any partner or limited partner, or any other person who is interested directly in the ownership or operation of the business;
 7. All criminal statute, whether federal or state, or city ordinance violations for which conviction, forfeiture of bond or pleading of nolo contendere has occurred, except minor traffic violations;
 8. Fingerprints and two color portrait photographs at least two inches by two inches of the applicant. The city permits office will provide fingerprints and photographs of applicant;
 9. The address of the premises from which the vehicle for hire business is to be conducted and the address wherein the vehicles are to be stored and/or serviced;
 10. If the applicant is a corporation, the name of the corporation and the date and state of incorporation, the name and address of the registered agent, and the names and addresses of all shareholders, as required above, officers and directors of the corporation;
 11. The experience and/or the qualifications of the applicant to operate a horse-drawn carriage for hire service;
 12. A showing that the public convenience and necessity requires the granting of the certificate;
 13. The number of horse-drawn carriages to be put into service at the time of application, the location of private property stands, and the size and seating capacity of each carriage;
 14. Whether applicant operates any other vehicles under this chapter;
 15. A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

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- C. Within ten days, or a reasonable time thereafter of receiving the results of the investigation conducted by the division of police services, the director of police services shall fix a time and a place for a public hearing on the application and notice shall be given as provided in section 6-1-3(B). All documents relative to the public hearing shall be available for inspection prior to the hearing. Any interested person may file a statement in support of or in opposition to the issuance of a certificate, and/or may offer testimony at the hearing.
- D. Failure or refusal of the applicant to give any information relevant to the investigation of the applicant or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that the applicant is ineligible for such certificate and shall be grounds for denial thereof by the director.

(Code 1985, § 39-106; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 12, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-7. Standards for issuance of certificate.

The city treasurer may issue a certificate of public convenience and necessity if an applicant meets the following standards:

- A. The applicant's financial status shall be such that the applicant shall be capable of operating the horse-drawn carriage for hire service during the time the certificate shall remain in effect.
- B. The public convenience and necessity requires the granting of a certificate in that the applicant has shown:
1. The support of potential customers of the service;
 2. The uniqueness of the services offered, if possible;
 3. That the service would not disrupt local traffic conditions.
- C. If the applicant is an individual:
1. The applicant shall be at least 18 years of age.

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2. The applicant shall not have an outstanding unpaid final judgment.
 3. The applicant shall not have been convicted of, forfeited bond or pleaded nolo contendere to a felony or any crime involving moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, prostitution, assignation, obscenity, or any crime of a sexual nature in any jurisdiction within five years immediately preceding the date of application.
 4. The applicant shall not have been found to have violated this chapter within five years immediately preceding the date of application.

D. If the applicant is a corporation:

1. All officers and directors shall be at least 18 years of age.
2. No officer, director or stockholder required to be named under section 6-1-6 shall have outstanding unpaid final judgments.
3. No officer, director or stockholder required to be named under section 6-1-6 shall have been convicted of, forfeited bond or pleaded nolo contendere to a felony or any crime involving moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, assignation, prostitution, obscenity, or any crime of a sexual nature in any jurisdiction within five years immediately preceding the date of application.
4. No officer, director or stockholder required to be named under section 6-1-6 shall have been found to have violated this chapter within five years immediately preceding the date of application.

E. If the applicant is a partnership, joint venture or any other type of organization where two or more persons have a financial interest:

1. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.

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2. The managing experience in the operation of a horse-drawn carriage business or in related endeavors.
 3. No person having a financial interest in the partnership, joint venture or other type of organization shall have outstanding unpaid final judgments.
 4. No person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of, forfeited bond or pleaded nolo contendere to a felony or any crime of moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, prostitution, assignation, obscenity or any crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
 5. No person having a financial interest in the partnership, joint venture or other type of partner or manager shall have organization shall have been found to have violated this chapter within five years immediately preceding the date of the application.

(Code 1985, § 39-107; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-8. Certificate issued to owner only.

No certificate shall be granted under this chapter to any person unless the person is the owner of the horse-drawn carriage(s). The owner of a horse-drawn carriage must prove ownership to the city treasurer or his or her designee. The owner shall have a permanent number engraved or embossed on the chassis of the horse-drawn carriage. The owner will furnish photographs of the carriage(s) and notarized statements listing the self imposed serial number(s) to the city treasurer.

(Code 1985, § 39-108; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-9. Fee.

Certificates of convenience and necessity of horse-drawn carriages shall expire at midnight every March 31st, unless a timely and complete renewal is filed prior to that date. Such a timely and complete renewal shall serve to extend the permit until final action on the renewal request is taken by the department. When a certificate is issued, and at each renewal thereof, a fee for each carriage in use shall be paid to the city treasurer to defray the cost of administration of this chapter. The fee shall be as follows:

- A. For permits good for the period of April 1, 2003 until March 31, 2004: \$55.00.
- B. For permits good for the period of April 1, 2004 until March 31, 2005: \$65.00.
- C. For permits good for the period of April 2, 2005 until March 31, 2006, and every year thereafter: \$75.00.
- D. For any certificate or permit issued or amended after October 1 of any year, the fee shall be half the annual fee charged that year for each vehicle in use.

(Code 1985, § 39-109; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-10. Business license.

- A. Each carriage company must have a current business license.
- B. Each carriage company must maintain an emergency telephone number where the owner or manager may be contacted in case of emergency.

(Code 1985, § 39-110; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-11. Insurance.

No certificate of public convenience and necessity shall be issued unless the applicant provides to the city treasurer proof of financial responsibility by a written policy of liability insurance coverage as follows:

- A. Not less than \$100,000.00 in limited liability per occurrence;
- B. Not less than \$300,000.00 in public liability per occurrence;
- C. Not less than \$50,000.00 in property damages per occurrence.

(Code 1985, § 39-111; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-12. Business to be conducted by certificate holder; agreement with drivers.

The business of every horse-drawn carriage for hire shall be carried on by the person to whom the certificate is issued under this chapter. The holder of the certificate may enter into agreements with drivers fixing percentages of receipts to be turned over to the holder of the certificate for the daily use of such carriage paying salaries to drivers, or drivers may rent the horse-drawn carriage for hire for a specific sum of money. A driver may be the conditional vendor or lessor of a carriage as long as the certificate holder is the owner as defined in section 6-1-1. Any arrangement contracted between the holder of a certificate and the driver shall not relieve the holder of the certificate from any liability and damages to third parties. A sample copy of all such agreements shall be kept on file with the city treasurer.

(Code 1985, § 39-112; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-13. Increase in number of carriages after issuance; enlargement of authority.

A certificate holder shall not increase the number of horse-drawn carriages for hire operated pursuant to the certificate without receiving

the approval of the city treasurer or the city treasurer's designee. The city treasurer or the city treasurer's designee shall approve or disapprove such request on the basis of economic need of the certificate holder, need of public for additional service, and other factors listed in section 6-1-7(B). If the request is denied, the city treasurer or the city treasurer's designee shall advise the certificate holder in writing of the reasons for such action. In no event shall the number of permitted horse-drawn carriages be more than 50. At no time shall the level exceed two-thirds ownership of one certificate holder. If the certificate holder requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held as provided in section 6-1-3(B).

(Code 1985, § 39-113; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-14. Replacement of vehicles.

- A. In case any carriage covered by a certificate is retired by the owner because it is worn out or so damaged as not to be worth of repair, or is burned or otherwise destroyed, the certificate holder shall advise the designee of the city treasurer in writing of the circumstances of the retirement. The certificate holder shall deposit with the designee of the city treasurer proof of ownership of the replacement carriage.
- B. The certificate holder must, if vehicles are discarded, sold, returned or otherwise disposed of, give notice to the city treasurer of such action whether or not the vehicle is replaced and return identification sticker to city treasurer.

(Code 1985, § 39-114; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-15. Accident reports.

Reports of accidents in which any horse-drawn carriage for hire may be involved shall be promptly made to the police services division in accordance with the provisions of chapters 2-28 through 2-36. The certificate holder and the driver shall each have responsibility for filing

a copy of the report with the city treasurer. Upon the happening of any accident or collision, the certificate holder shall forthwith have the passenger vehicle for hire involved therein removed from service until properly repaired.

(Code 1985, § 39-115; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-16. Assignment or transfer of certificates.

No certificate of public convenience and necessity may be sold, assigned, mortgaged, transferred or alienated.

(Code 1985, § 39-116; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-17. Expiration and renewal of the certificate.

A certificate issued under this chapter shall expire March 31 of each year at midnight and shall be renewed at the existing level of vehicles as long as the standards for the initial issuance are met. Applications for renewals shall be made by March 10 of each year, by which time all fees for the succeeding year shall have been paid. If the request for renewal is denied, the city treasurer or the city treasurer's designee shall advise the applicant in writing of the reasons for such denial. If the applicant requests a hearing within ten days of notification of denial, a public hearing shall be held as provided in section 6-1-3(B).

(Code 1985, § 39-117; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-18. Fines, suspension and revocation of certificates.

A. A certificate issued under the provisions of this chapter may be suspended or revoked by the city treasurer or the city treasurer's designee after a public hearing, except as provided in section 6-1-3(C). Notice, public access to documents, and conduct of hearing shall conform with the provisions of section 6-1-3(B) except that written notice shall be sent by registered U.S. mail to the subject certificate holder by the date of publication.

B. A certificate issued under the provisions of this chapter may be subject to a penalty fine of no more than \$50.00, suspension or revocation by the director of police services or the director's designee, upon findings at the public hearing that the holder of the certificate has:

1. Violated any provisions of this chapter;
2. Discontinued operation for more than 30 days;
3. Would no longer be eligible for issuance of the certificate.

C. A certificate holder shall have the right to appeal the ruling of the city treasurer or the city treasurer's designee revoking or suspending the certificate in the same manner as provided for appeals of the decision under section 6-1-3(C).

(Code 1985, § 39-118; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-19. Horse-drawn carriage stands—Use by other vehicles prohibited.

A. Private or other vehicles for hire shall not at any time occupy the space upon the streets that have been established as horse-drawn carriage stands. Horse-drawn carriage stands shall at all times be restricted to a minimum distance of 100 feet from the threshold of any establishment or enterprise whose main business is the serving of restaurant clientele or food serving processes, unless the restaurant owner gives his or her consent that a horse-drawn carriage may be located within the 100 feet minimum distance from its threshold, and all the written consents to go to the city's department of engineering.

B. Horse-drawn carriage for hire stands shall be designated by the city engineer in concert with the city treasurer. If in the judgment of the city engineer the establishment of a horse-drawn carriage for hire stand will not interfere with nor present a hazard to the traffic on the street where such stand is sought to be established, the city engineer shall erect or cause to be erected the necessary official signs and markings to designate the stand. The city engineer shall

forward a copy of his or her approval of the stands to the city treasurer.

- C. A holder of a certificate of convenience and necessity may request additional stands through the permit office of the Memphis Police Department or the city engineer. It is unlawful for any person to remove, alter or deface any sign or other marking so installed. Additional markings on the standards shall be approved by the city engineer.
- D. All horse-drawn carriage for hire stands are to be available for the use of all horse-drawn carriages for hire operating within the city on the basis of the driver of the first carriage for hire arriving at a vacant stand having the right to occupy such stand; however, the city treasurer may designate certain stands for a particular class of vehicles for hire only, such as: taxicab, horse-drawn carriage, etc. It is expressly provided that passengers may select any horse-drawn carriage for hire at such stands regardless of the horse-drawn carriage's position in the line at such stand and that no certificate holder may monopolize any stand.
- E. While in service, the operator of a horse-drawn carriage for hire may park the carriage at any legal parking space. When a carriage is parked upon a metered space, the operator shall pay the appropriate fee. If the carriage is so large that more than one metered space is occupied, the driver shall pay the meter(s) for all spaces fully or partially occupied. This provision shall not prevent the operator of a horse-drawn carriage for hire from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. While parking for this designated purpose upon a metered space, the driver shall pay the appropriate fee. While parked at any parking space, subsections G and H of this section and section 6-1-45 shall apply.
- F. No person other than the holder of a horse-drawn carriage for hire certificate of convenience and necessity, his or her agent, or employees, shall occupy a designated horse-drawn carriage for hire stand, except that the driver of a passenger vehicle may temporarily

stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any passenger vehicle for hire entering or about to enter the stand or stop.

G. Carriage companies shall keep horse-drawn carriage stands clean, free of manure and urine at all times. Urine shall be diluted with water or water with disinfectant as it occurs.

H. Water for the horses shall be available at all times.

(Code 1985, § 39-119; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

DRIVERS AND CONDUCTORS

Sec. 6-1-20. Vehicle drivers.

No person shall operate a horse-drawn carriage for hire upon the streets of the city, and no certificate holder who owns or controls a horse-drawn carriage for hire shall permit it to be so driven, and no passenger vehicle licensed by the city shall be so driven at any time for hire, unless the driver of the vehicle for hire shall have first obtained and shall have a current and properly updated passenger vehicle for hire driver's permit which has been approved by the city treasurer and issued by the city treasurer, or his or her designee.

(Code 1985, § 39-120; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-21. Application for a driver's permit.

A. Permits required by this article shall be applied for, in person and in writing, on such forms as the city treasurer may prescribe, which forms shall show that:

1. The applicant has obtained a valid driver's license pursuant to the provisions of T.C.A. chapter 7, title 59;
2. The experience of the applicant in working with horses;

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3. All criminal statutes, whether federal or state, or city ordinance violations for which conviction, forfeiture of bond or pleading of nolo contendere has occurred, including motor vehicle and traffic violations;
 4. Such other information as the city treasurer may require.
- B. Such application shall be accompanied by two photographs as provided by the city permits office, one of which shall be attached to the permit, if issued, and one to be retained in the files of the city treasurer with the application for the permit.
- C. Such application shall be accompanied by:
1. A statement form, provided by a physician licensed to practice in the State of Tennessee, dated within 30 days of the application, indicating the length of time which the physician has treated the applicant, showing the applicant is not disabled by reason of defect of sight, hearing, body or limb, from safely operating a horse-drawn carriage and indicating any and all physical and mental conditions for which treatment has been rendered within the last year and for which treatment continues to be rendered;
 2. Statements of at least three reputable residents of the city who are personally acquainted with the applicant who will state their knowledge of the good reputation, honesty and general good character of the applicant, and include their name, address and home or work telephone number;
 3. A statement from a holder of a certificate of public convenience and necessity indicating that the applicant shall be affiliated with the certificate holder upon issuance of the permit.
- D. Permits shall remain the property of the city treasurer and may be canceled, revoked or suspended at any time and will be surrendered on demand.

(Code 1985, § 39-121; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-22. Application for a carriage driver's training permit.

A training permit will be issued for new and potential carriage drivers good for 14 days. During this period, the driver is required at all times to drive or ride with a designated trainer and permitted carriage driver. The fee for the trainer's permit shall be half that of regular carriage drivers and will go towards the cost of a full carriage driver's permit. If the trainee does not make full application after 14 days, the permit shall be null and void and the applicant must begin the process again.

(Code 1985, § 39-121.1; Ord. No. 4941, 5-7-2002)

Sec. 6-1-23. Applicant to fill out identification questionnaire and be fingerprinted.

Each applicant applying for a permit shall appear before the city treasurer or his or her designee to complete an identification questionnaire on a form to be provided, and be fingerprinted.

(Code 1985, § 39-122; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-24. Investigation; issuance; not to issue to certain persons.

- A. Before issuing a permit under this article, the city treasurer or the city treasurer's designee shall investigate the facts set out in the application and shall not grant such permit to any person who, in the opinion of the city treasurer, after investigation, is not physically or morally fit to drive or operate a horse-drawn carriage for hire in the city.
- B. No driver's permit shall be issued to any applicant who has been convicted of, forfeited bail or pleaded nolo contendere to a felony or any crime, involving moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, prostitution, assignation, obscenity or any crime of a sexual nature in any jurisdiction, or been an inmate of reform school or penitentiary as a result of a conviction

for a felony, within five years prior to his or her application for such permit.

- C. The city treasurer may refuse to issue a permit to any applicant whose police record shows numerous convictions for public drunkenness, driving under the influence of intoxicants/drugs, repeated moving traffic violations, or any other good and just cause which, in the opinion of the city treasurer, would be inimical to the public health or safety.
- D. No permit shall be issued unless the applicant is at least 18 years of age.
- E. It shall be the duty of the city treasurer to issue a permit to any person applying therefor, showing compliance with the provisions of this chapter.

(Code 1985, § 39-123; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-25. Notification of arrest or indictment.

The holder of a driver's permit shall advise the city treasurer immediately of all charges, arrests and indictments, including those for public drunkenness and driving under the influence of intoxicants. The city treasurer may suspend a driver's permit for five days prior to a hearing pursuant to section 6-1-31, if the driver is arrested, charged or indicted for any violation of city, state or federal laws. It shall also be the responsibility of the certificate holder with which the driver is affiliated to notify the city treasurer of the charges, arrests or indictments. Failure to do so may result in suspension or revocation of the permit and/or of the certificate.

(Code 1985, § 39-124; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-26. Notification of company change of driver.

At the time a permit is issued, the driver must register with the division of police services the name of the horse-drawn carriage for hire certificate holder with which the driver intends to be affiliated and the

division of police services will have stamped on the permit the name of the horse-drawn carriage for hire certificate holder specified by the driver. If at any time a driver wishes to change affiliations, the driver must register the change with the division of police services, and a fee of \$10.00 will be charged to defray administrative cost. Failure to advise the director of any such changes may result in suspension or revocation of the permit. It shall be the responsibility of the holder of the certificate of public convenience and necessity to notify the city treasurer when affiliation with a driver is discontinued and any holder which allows a driver to operate a vehicle for hire without a proper and complete permit may have its certificate suspended or revoked. The holder of the certificate of public convenience and necessity must supply in writing to the permits office, the correct address of each driver currently affiliated with the certificate holder.

(Code 1985, § 39-125; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-27. Permit fee.

Each applicant for a permit under the provisions of this article shall pay to the city treasurer a fee of \$30.00 at the time of the filing of the application to cover the cost of drug screening, physical and driver's safety classes. For the renewal of such permit, the applicant shall pay a fee of \$25.00. To replace a lost, destroyed or stolen permit that is current, the fee shall be \$20.00.

(Code 1985, § 39-126; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-28. Form, size, design and contents.

A permit issued under this chapter shall be in card form, of such size and design as may be prescribed by the city treasurer which shall bear on its face a photograph of the driver, the number of the permit, the expiration date thereof the company with which the driver is affiliated, and such other information as the city treasurer may require.

(Code 1985, § 39-127; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-29. Possession of permit.

The original permit issued under this chapter, containing a photograph and other data on the driver shall at all times be in the possession of the driver of the horse-drawn carriage for hire operated by such driver, to be shown to the passenger or a police officer on demand, while such horse-drawn carriage for hire is under the direction or control of such driver.

(Code 1985, § 39-128; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-30. Expiration and renewal.

- A. A permit issued under this chapter shall expire at midnight on the anniversary of the birth date of the permit holder each calendar year.
- B. If the driver wishes that his or her permit be renewed, he or she shall furnish the city treasurer, or his or her designee, in person, the following information at least one month prior to his or her permit expiration:
 - 1. An affidavit signed by the driver indicating no medical or physical disabilities were suffered during the previous year;
 - 2. A statement from a holder of a certificate of public convenience and necessity indicating that the driver is a current driver for the certificate holder.
- C. Every three years, a driver shall submit, at the time of renewal, a certificate completed by a physician licensed in the State of Tennessee and including that physician's license number, indicating the length of time which the physician has treated the driver, showing the driver is not disabled by reason of defect of sight, hearing, body or limb from safely operating a horse-drawn carriage and indicating any and all physical and mental conditions for which treatment has been rendered within the previous three years and those for which the driver continues to receive treatment.

(Code 1985, § 39-129; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-31. Fines, suspension and revocation of permit.

- A. The city treasurer is given the authority to fine a penalty fee of no more than \$50.00 to suspend or revoke any driver's permit issued under this chapter for a driver's failure to comply with the provisions of this chapter or the rules and regulations specified by the city treasurer.
- B. The city treasurer shall notify a driver of the violations with which he or she is charged and his or her right to a hearing before the city treasurer or the city treasurer's designee, at which time the driver shall have an opportunity to present evidence; provided, however, that the city treasurer or the city treasurer's designee may suspend a permit for five working days prior to a hearing, with a hearing to be held within that period of time, if, in the judgment of the city treasurer or the city treasurer's designee, the public health and safety requires. At such hearing, the city treasurer or the city treasurer's designee is authorized to further suspend or revoke a driver's permit.

(Code 1985, § 39-130; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-1. Unauthorized use of permit; defacing or removing permit.

- A. The city treasurer or the city treasurer's designee may suspend or revoke the permit of any driver for allowing any other person to use the permit granted to the driver, for the purpose of operating a passenger vehicle for hire or for any other reason.
- B. The city treasurer or the city treasurer's designee may suspend or revoke the permit of any driver who defaces, removes, or obliterates any official entry made upon the permit.

(Code 1985, § 34-131; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-33. Standards of appearance and conduct of drivers.

- A. No driver shall engage in selling alcoholic beverages, any controlled substance, or solicit business from any house of ill repute or any person known to be of ill repute use his or her vehicle for any purpose other than the transporting of passengers except as provided for driver trainees. Passengers may possess alcoholic beverages.
- B. Drivers shall not engage in abusive language, including, but not limited to, cursing, verbal insults or derogatory comments in the presence of passengers, potential or engaged, or staff members of regulating authorities.
- C. While on duty, drivers shall not be under the influence nor engage in the consumption of intoxicants, including, but not limited to, beer and other alcoholic beverages or controlled substances. Any driver charged with driving while intoxicated may have his or her permit immediately suspended as provided in section 6-1-31.
- D. Drivers must present an acceptable appearance, including clean, neat wearing apparel not in need of repair. Hats may be worn. No shirt may be worn displaying an offensive logo. No halter-tops or tank shirts may be worn. Shorts may be worn but must be knee length or no more than three inches above the knee. Shoes, excluding sandal type shoes, must be worn at all times while serving the public. General appearance must be one of neatness and cleanliness.

(Code 1985, § 39-11; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002)

Sec. 6-1-34. Total passengers in vehicle; carrying passengers on driver's seat prohibited.

No driver shall permit more persons to be carried in a horse-drawn carriage for hire as passengers than the seating capacity. A child in arms shall not be counted as a passenger.

(Code 1985, § 39-133; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-35. Consent required for horse-drawn carriage driver to pick up additional passengers.

No driver of a horse-drawn carriage shall carry any person other than the original passenger(s) by whom he or she has been engaged, without the consent of the original passenger(s), unless it is a driver trainee or other company employee.

(Code 1985, § 39-134; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-36. Drivers not to work more than 12 hours out of 24.

- A. No driver shall work more than a maximum of 12 hours in the aggregate of any 24-hour period, and such driver shall not begin to drive until he or she has had at least eight consecutive hours of rest.
- B. It is the duty of the certificate holder in conjunction with the driver to meet these requirements.

(Code 1985, § 39-135; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-37. Solicitation of passengers by drivers; drivers to remain in or near carriage.

- A. No horse-drawn carriage for hire driver shall solicit passengers for a horse-drawn carriage for hire, except when sitting in the driver's seat of such carriage for hire or while standing immediately adjacent to the carriage. The driver of any horse-drawn carriage for hire shall remain in the driver's seat or immediately adjacent to the carriage at all times when such carriage is upon public streets, provided further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of the carriage.
- B. No horse-drawn carriage for hire driver shall solicit patronage in a loud or annoying tone of voice, or by sign, or in any manner annoying any person, or to obstruct the movement of any person or follow any person for the purpose of soliciting patronage.

(Code 1985, § 39-136; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-38. Drivers of horse-drawn carriages.

- A. A driver of a horse-drawn carriage must properly guide the animal and carriage and must properly control the animal and carriage at all times, and:
- B. Must have valid driver's license.
- C. Must obey all traffic laws/rules.
- D. Drivers must be permitted.

(Code 1985, § 39-137; Ord. No. 4227, § 1, 11-2-1993)

VEHICLES

Sec. 6-1-39. Carriage safety equipment.

- A. Prior to the use and operation of any horse-drawn carriage for hire under the provisions of this chapter, the carriage shall be thoroughly examined and inspected by an Inspector and found to comply with this section's requirements. If, at any time, the horse-drawn carriage for hire is found by an Inspector not to comply with the following requirements, the horse-drawn carriage for hire shall not be allowed to be operated on the streets, alleys and public ways of the city until and unless the inspector finds the carriage meets these requirements.
- B. Every carriage operating on the streets, alleys and public ways of the city shall at all times be equipped with all safety equipment and any other requirements in respect to safety as is required by the laws of the state or this Code and all such regulations as may be issued by the city treasurer.
- C. Every horse-drawn carriage for hire operating on the streets, alleys and public ways of the city shall at all times be in a safe and suitable condition for such use and shall have the following:
 - 1. Every horse-drawn carriage shall be equipped with lights clearly visible from the front and rear. One light housing shall be attached to the left side of the carriage and one light housing

shall be attached to the right side of the carriage. The light housings may be of the type that illuminate from the front and rear simultaneously. Viewed from the rear, the lens must be red. Viewed from the front, the lens may be clear or amber. The light(s) must be capable of displaying a light visible 500 feet to the rear and 500 feet to the rear of such vehicle under ordinary atmospheric conditions and such light shall be displayed during the period from one-half hour after sunset to one-half hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of 200 feet ahead of such vehicle.

2. Each carriage shall be equipped with electric turn signals.
3. No company shall use a carriage not equipped with brakes.
4. Each carriage shall be equipped with a slow-moving vehicle emblem to be attached to the rear of the vehicle.
5. Each company is encouraged to use reflective material wherever appropriate on carriages, harness and horse forelimbs.
6. Carriages must be properly lubricated and wheels must spin freely.
7. Each carriage should be equipped with a device to catch horse manure and prevent it from falling on the pavement; all missed droppings should be cleaned up at the end of each trip.
8. Each carriage shall be maintained in a safe and sanitary condition.
9. No horse-drawn carriage may carry more passengers than it was originally intended.
10. Each company shall conduct regular safety inspections of their vehicles. No vehicle shall be allowed into service that has lights, brakes or other safety features that are inoperable. Radio equipped or cellular phone equipped carriages are encouraged.
11. Four-wheel carriages should be equipped with fifth wheel or cut under turning mechanisms on the front axle.

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12. Any other requirements in respect to safety as is required by the laws of the state or this Code and all regulations as may be issued by the city treasurer.
 13. Obey all traffic laws of city and state.
 14. Identifying stickers.
 15. Name of company.

(Code 1985, § 39-138; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-40. Television equipment.

No television set shall be installed or portable model television operated in any horse-drawn carriage.

(Code 1985, § 39-139; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-41. Horse-drawn carriage maintenance.

- A. Every horse-drawn carriage for hire operated in the city shall be kept in a clean and sanitary condition and in such condition of repair as may be reasonably necessary to provide for the safety of the public and for continuation in satisfactory operation.
- B. It is the joint responsibility of the certificate holder and of the driver to maintain the appearance and safety of the horse-drawn carriage for hire and equipment and failure to comply may result in the suspension or revocation of the certificate for public convenience and necessity and/or of the driver's permit.
- C. All carriages are subject to an annual inspection by the permits/license inspector for safe mechanical conditions, with all safety equipment remaining intact and operative.
- D. Any carriage involved in an accident is required to be inspected by the permits/license inspector before going back into service.

(Code 1985, § 39-140; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002).

Driver shall be held to include every person in actual charge of the operation of a horse-drawn carriage.

LICENSING AND CARE OF ANIMALS

Sec. 6-1-42. Licensing of Equines-Powers of Director of Animal Services

A. General

1. As set forth in this chapter every person or business operating a horse-drawn carriage for hire business in the City is required to obtain and maintain a valid certificate of public convenience and necessity (“Certificate”) and every driver of a horse-drawn carriage for hire is required to obtain and maintain a valid Driver’s Permit.
2. Every Certificate Holder is also required to obtain and maintain a valid license for every equine to be used in the horse-drawn carriage for hire business as provided in this section (“Equine License”).
3. The director of animal services shall have authority over the licensing of equines and the enforcement of the provisions of this chapter regarding the care of animals used in the horse-drawn carriage for hire business to promote the health, safety, and well-being of the licensed equines. Compliance with all provisions of this chapter is a continuing condition of every Certificate, Driver’s Permit and Equine License.
4. A driver shall allow the inspection of their horse and/or carriage by an Inspector at any time while they are on public streets. This includes during a trip in which they have been hired if a safety issue is suspected.
5. Holders and Drivers shall be responsible for any violation under this article where it is shown such person had knowledge of the violation, or should have had knowledge of the violation, and made no attempt to prevent it from occurring.

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6. Nothing in the chapter shall preclude the director of animal services or their designees from enforcing all local, state, and/or federal animal cruelty laws.

B. Before any animal is brought into service by the certificate holder, the certificate holder shall obtain an Equine License from the director of animal services, which may be issued only after the equine has been examined by a Tennessee licensed veterinarian who provides service in Shelby County, Tennessee and a listed telephone number. The veterinarian shall certify to the director of animal services in writing that the animal meets all qualification criteria set forth herein after in this section, and that certification shall be presented to the director of animal services for approval prior to issuance of an Equine License for the equine by the City of Memphis. The veterinarian shall provide the following as proof of certification:

1. A veterinary record of a microchip placed in the neck along the nuchal ligament just under the mane.
2. A copy of the animal's veterinary records with the most recent exam being dated no more than 30 days prior to the animal being brought into service.
3. A copy of a negative Coggin's Test.

C. No licensed equine shall be permitted to pull any carriage unless the animal is in good health and meets at least the following requirements:

1. Must be a gelding or mare
2. Must be at least three (3) years old and no greater than twenty (20) years old
3. Must weigh at least one thousand two hundred (1,200) pounds to pull up to eight people, including the driver, as a single puller, and must weigh at least 1,500 pounds to pull a carriage capable of holding up to 30 people and shall only pull such a carriage in a team of two such animals.

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4. Must be of such stamina and in such physical condition, as determined by a veterinarian, to perform the required equine-drawn carriage tasks without any undue stress and effort.

D. The following shall deem a licensed equine unfit for use:

1. Lameness of any kind;
2. Open sores or wounds caused or likely to be irritated by the bearing surfaces of harness, bridle or girths;
3. Signs of emaciation, dehydration or exhaustion;
4. Loose shoes or no shoes; or
5. Uncontrollable behavior.

E. An equine required to be licensed pursuant to this section which fails to meet any of the above criteria may be declared unfit for service and may be ordered removed from work by the director of animal services or his or her designee if the director of animal services or his or her designee determines that removal of the equine is necessary for health and safety reasons or as an immediate protection to the equine or the public. An equine for which such an order has been issued shall not be returned to work until such time as the equine is re-examined and a veterinarian licensed by the State of Tennessee certifies in writing that the equine is fit to return to work using the criteria set forth in this chapter.

F. Should a carriage horse be permanently removed from service, it shall be sold or disposed of in a humane manner.

(Code 1985, § 39-141; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-43 Proper Care of Licensed Equines

A. An equine required to be licensed pursuant to this article must receive the following routine veterinary care to remain compliant with this chapter:

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1. A full soundness exam every six (6) months by a veterinarian licensed by the state of Tennessee
 2. Treatment for internal parasites or fecal floatation egg counts every four (4) months under the direction of a veterinarian licensed by the State of Tennessee, and treatment for external parasites whenever they are found to be present.
 3. Hoof trimming and shoes reset every six (6) to eight (8) weeks using caulks or borium to prevent slippage and rubber shoes or pads to prevent concussion injuries; shoes shall be shod in a manner approved by the director of animal services and shall have non-skid base surfaces.
- B. A preventative vaccination/ veterinary record affirming these standards are met shall be maintained by certificate holder and must be available for inspection on demand by the director of animal services or their designee, to include:
1. Current license of the equine being used;
 2. Current picture of the equine;
 3. Current health certificate of the equine;
 4. The equine's body condition score, certified every six (6) months by a veterinarian licensed by the State of Tennessee; and
 5. Description and location of any other identifying characteristics, marks and brands of the equine.
- C. The animal must be kept clean, especially those areas in contact with the harness or other tack, as well as groomed daily when in service and must not have fungus, dandruff or a poor or dirty coat.
- D. Each animal must be fed at least twice daily and shall have access to forage and feed in the amount to keep appropriate body condition score. The forage and feed shall be kept clean, fresh and must be of good quality.
- E. Each animal must have accessible potable drinking water provided in the stable at all times.

F. An animal shall be properly exercised when not working.

G. Holders and drivers shall ensure that each equine is offered potable drinking water in an appropriate container after every fare.

Sec. 6-1-44. Conditions of Use of Licensed Equines.

A. A Licensed Equine shall not be worked under any of the following conditions:

1. Pulling a carriage at a speed faster than a slow trot;
2. Pulling a carriage at top speed for more than thirty (30) minutes;
3. With equipment causing an impairment of vision other than normal blinders;
4. Any condition which will impair the good health and physical condition of the animal or that subjects the animal to cruel or harassing treatment.
5. Pulling a carriage that has music or other amplified sound played above 85 dB, or at any level below that which causes the animal distress.
6. Pulling a carriage on a public highway, path or street during conditions which are determined by the director of animal services or their designee to pose a threat to the health, safety or well-being of the equine, passengers, or general public.
7. If conditions develop while an equine is being worked, said equine shall be returned without delay to the stable by the most direct route and, if the threat posed is an immediate one, then the return of the equine to the stable shall be by equine trailer.

B. Shifts

1. Holders and drivers shall ensure that any licensed equine does not work more than eight (8) hours in a 24-hour period as reflected by pulling fares in the logbook. Carriages may be in service for up to ten (10) hours so long as no more than eight (8) of the ten (10)

hours are active pulling fares. An equine must have least a fourteen (14) continuous hour rest period within each twenty-four (24) hour period. Equines shall be considered as working if the equine is pulling a carriage that is being presented to the public as a carriage for hire.

2. Certificate Holders and Drivers shall provide equines a minimum ten (10) minute rest period between fares in excess of one (1) hour. Certificate Holders and Drivers shall provide equines a reasonable rest period between fares less than one (1) hour.
3. Certificate Holders shall keep a current log in each stable showing each equine's use. A Certificate Holder shall keep on the premises of the stable where the Licensed Equines are kept a consecutive daily record of the movements of each Licensed Equine, including driver's name and identification number, equine's identification number, vehicle identification tag number, and a daily manifest on each equine. Such records shall be made available, at any reasonable time, for inspection by the director of animal services or his or her designee.
4. If a Licensed Equine must return to the stables due to inclement weather or equipment replacement, it may return to operation to complete the same shift but may not extend that shift beyond ten (10) hours from the start of the shift.

C. Weather.

1. Certificate Holders shall check the temperature for the City of Memphis every thirty (30) minutes while they have carriages in service and document in the daily record for horses in service that day. This verification shall be done by using a reputable weather website. If the temperature is at or above 95° Fahrenheit or at or below 32° Fahrenheit, animals may not be put into service and shall not be outside of the barns or stables.
2. All Certificate Holders and Drivers shall work their horses only when safe weather conditions exist. Special attention and discretion should be used during periods of snow, ice, heavy

rain, high humidity, or extreme wind chill. Proper shoes should be used during icy conditions.

3. Should the director of animal services determine that special circumstances exist which would jeopardize the safety of the a Licensed Equine, such as a significant weather event or other environmental problems, the director may order the temporary suspension of the operation of all horse-drawn carriages for hire until such time as the special circumstances no longer exist.

(Code 1985, § 39-142; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-45. Equipment

A. Certificate Holders and Drivers shall ensure that pads and other pieces of tack are kept clean and in a safe and serviceable condition. No Licensed Equine will be worked with a harness or bit that is not approved by a qualified and approved veterinarian.

1. The harness must be oiled and cleaned to be soft at all times.
2. The harness shall be properly fitted and maintained. Wire, sisal, rope, rusty chains or other substandard additions to the harness are prohibited.
3. The harness shall be examined every 6 months by a veterinarian licensed by the state of Tennessee.

B. The use of whips is prohibited except in situations presenting imminent danger to human or equine safety. Certificate Holders and Drivers are restricted to the use of a “buggy” style whip at times of imminent danger. All other whip styles are prohibited in all situations.

C. Equines licensed under this chapter will be fitted with a diaper or proper collection bag for animal droppings.

1. A Driver shall empty the horse’s diaper prior to the beginning of each trip for hire.

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2. A Driver shall not allow excrement to drop from the equine's diaper and will ensure that the diaper bag is properly fastened to the equine as outlined by the manufacturer's instructions.
 3. It shall be the responsibility of the Certificate Holder to take the necessary steps to keep all streets, alleys, sidewalks, and other public ways of the city cleared of animal droppings.

D. Each Driver shall dilute horse urine with a deodorizing, non-toxic liquid right away. The driver shall not impede traffic while doing so and if necessary, shall clean up any missed urine at the end of each trip.

(Code 1985, § 39-143; Ord. No. 4227, § 1, 11-2-1993); (Code 1985, § 39-144; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002)

Sec. 6-1-46. Stalls and stables.

- A. Stables for housing of equines and carriages shall comply with all zoning laws and ordinances of the city of Memphis and Shelby County and shall be no less than one hundred (100) feet from any dwelling.
- B. Such facilities shall conform to all health and sanitation regulations and shall be open for inspection by the director of animal services and their designees at all reasonable times, with or without prior notice.
- C. All stables used for housing horses shall be well lighted and ventilated.
- D. Foot hazards and sharp surfaces will not be permitted in any area or building where the Licensed Equines may be injured by such hazards and surfaces.
- E. All stables shall have standing stalls of sufficient dimensions to allow each equine to enter, stand, turn around, and lie down in a natural manner, and protect from adverse weather. The stalls shall be enclosed on all four (4) sides and shall have a solid exterior wall and a solid roof free of leaks.

F. Tie stalls shall be a minimum of 46 feet by ten feet. Horses that are not turned out daily should not be kept in tie stalls.

G. Stables and stalls shall be clean and dry. Sufficient bedding of straw, shavings, or other suitable material shall be furnished and changed as often as necessary to maintain the stables and stalls in a clean and dry condition. Bedding for concrete floors shall consist of at least six (6) inches of materials. Bedding for clay, dirt or rubber base floor shall consist of at least three (3) inches of materials.

H. A pest control program shall be used to control flies and other insects.

I. All interior and exterior areas of the stable shall be kept clean, properly drained and free of nuisances including, but not limited to, odors and accumulation of refuse and excrement.

J. There shall be no smoking at any time in stables.

(Code 1985, § 39-146; Ord. No. 4227, § 1, 11-2-1993)

(Code 1985, § 39-147; Ord. No. 4227, § 1, 11-2-1993)

(Ord. No. 5421, § 1, 11-1-2011)

Title 8 - ANIMALS¹

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CHAPTER 8-1. SCOPE OF CHAPTER AND DEFINITIONS

Section 8-1-1 Scope of Chapter

Conduct which is in violation of this Chapter shall constitute an ordinance offense for which a summons may be issued.

This title does not bar, suspend, or otherwise affect any right or liability for damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced for a criminal offense as set forth in Title 39 of Tennessee Code Annotated, or in a civil suit for conduct that the state criminal code defines as an offense, and the civil injury is not merged into the offense.

Sec. 8-1-2. – Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them herein, except when the context requires otherwise:

Abandonment means an animal that has not been provided adequate conditions as defined in this chapter, and whose owner failed to respond within 24 hours to an official notice left by animal services officers at the location where the dog is kept.

Adequate care shall include but not be limited to current vaccinations and/or medical treatment for illness, injury, disease, excessive parasitism, or any malformations; regular grooming to prevent matting which could lead to disease or injury; and nail clipping so no toenail grows long enough to penetrate the paw or affect the normal position of the paw.

Adequate conditions shall include but not be limited to adequate care, food, shelter, general maintenance, and water as defined in this section.

Adequate food means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily dietary requirements for the condition and size of the animal. Adequate food may be impacted by the environment in which the animal is kept and must be taken into account by the owner/custodian. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding is in accordance with accepted agricultural or veterinarian practices. Food stored outside must be kept in sealed containers to prevent vermin from accessing it.

Adequate shelter means a four-sided ventilated structure in good repair with an entrance on one side, a roof, and a solid floor and allows the dog to remain reasonably dry and maintain normal body temperature. The dimensions of the entrance and structure shall allow each dog present to enter, stand, turn around, and lie down in a natural manner, whether in the same structure or by providing multiple structures, and protect the dog from adverse weather and direct sunlight. During cold weather, the structure must contain bedding material that is sufficient to promote the retention of body heat and during summer months a separate natural or artificial shaded area must be available outside the structure and accessible by the dog. “Adequate shelter” does not include the space under buildings, decks, steps, or open crates and carriers designed for temporary housing unless modified to meet the requirements of this section. The shelter shall be cleaned regularly enough so as not to force the animal to stand, sit or lie in bodily waste. The enclosure in which the structure is located must be of a square footage sufficient to allow the dog to defecate at one end and lie at least twice its length away at the other end of the enclosure.

Adequate water means potable water provided continuously and changed out no less than once daily. The animal must have uninhibited access to the water. Adequate water may be impacted by environment

in which the animal is kept and must be taken into account by the owner/custodian.

Animal means a domesticated living creature or species of life different from man or plants or a wild creature previously captured and domesticated.

Animal services officer means any person assisting the animal services director authorized to impound animals and issue ordinance summons.

Animal services director means a person in charge of the city's animal services division, as designated by the Mayor, and hereafter referred to as "director."

Bite Scale means a standardized measurement tool used for determining the severity of a bite inflicted on a human or animal based on the physical damage the bite causes to the victim.

Cat means any animal of the domestic feline family.

Community cat means a cat that lives outdoors, is unowned/semi-owned, and free-roaming typically in a colony. Behavior is not an indicator of community cats as they can be friendly or "feral"(unsocialized). An ear-tip is an indicator that the cat is a community cat and has been sterilized.

Companion animal means domesticated animals kept in or near the household for the primary purpose of companionship for members of the household and/or companionship for other such animals. This includes dogs, cats, rabbits, guinea pigs, hamsters, domesticated rats, domesticated mice, ferrets, birds, reptiles, amphibians, invertebrates, and any other species that a reasonable person would consider to be a pet.

Competent person means any person 18 years old or older, who is able to comprehend and understand the nature of their responsibility, and has sufficient ability, mentally and physically, to handle any particular animal he or she may take charge of or have in their control.

Cruelty shall be defined in accordance with Tenn. Code Ann. § 39-14-202.

Dangerous dog for the purposes of this ordinance means any dog which:

- a. attacks and bites a person, animal or community cat without provocation, causing serious illness, injury or death including but not limited to a major fracture, muscle tears, or lacerations requiring multiple sutures or corrective or cosmetic surgery;
- b. any dog previously declared dangerous in a court of law;
- c. any dog owned or harbored for the purpose of dog fighting, to include animals bred for this purpose;
- d. any dog that has committed a bite that scores at least a level 3 or higher on a nationally recognized bite scale as defined herein and been found at-large twice;
- e. any dog that has bitten twice with at least one of the bites scoring a level 3 or higher on a nationally recognized bite scale as defined herein.

Dog means any animal of the canine family.

Ear tip means a procedure to remove the distal one-quarter of a cat's left ear for identification purposes and done under anesthesia during a sterilization surgery.

Employee means any person employed by the city under the management of the city's animal services division.

Fee schedule means fees charged for any services requiring payment at animal services, which shall be approved by the animal services director and authorized by passage of a resolution by the council. A current copy of the fee schedule shall be posted on the city of Memphis' website and in a conspicuous place in the Memphis Animal Services facility.

Fertile/unaltered animal means an animal which can produce offspring.

Fowl means any domesticated or undomesticated chickens, ducks, geese, turkeys, or other such birds as may be so designated by the director of the city's animal services division.

General Maintenance means adequate care, conditions, food, shelter and water as defined by this chapter and encompasses all reasonable measures to promote the health and safety of the animal.

Gross Neglect means a conscious and voluntary disregard for adequate conditions as defined herein, which is likely to cause foreseeable grave injury or harm to a companion animal. Gross neglect is conduct that a reasonable person would consider extreme when compared with ordinary neglect or mere failure to provide adequate conditions.

Guard dog means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog. Subject to the regulations set forth herein, nothing shall prohibit or limit a person's right to possess a dog for protection to their person or property. No person shall use a dog as a weapon or to threaten or harass other persons or animals.

Humane trap means a cage equipped with a trap door which, when tripped, locks an animal or fowl within the structure unharmed.

Inclement weather conditions shall mean rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures, or any

environmental condition sufficient to threaten the health and/or safety of a companion animal.

Livestock means animals such as cattle, cows, swine, sheep, horses, mules, goats, or any animal designated as such by the director of the city's animal services division.

Ordinance summons means a written order to appear in court for alleged violations of any part of this chapter, issued by an animal services officer.

Owner means any person, partnership or corporation owning an animal; or any person who feeds, shelters, or harbors an animal or permits it to remain on the person's property. If any dog is found on the premises of any person for a period of ten days or more, it shall be prima facie evidence that such dog belongs to the occupant of such residence. Any person keeping or harboring a dog for (10) consecutive days shall, for the purpose of this chapter, be declared to be the owner thereof, and liable for violations of this title. If the animal is owned by a person under the age of 18 that person's parent or guardian shall be liable.

Properly Fitted Collar or Harness means a band of material specifically designed to be placed around the neck of a dog or a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog that is:

- a. appropriately sized for the dog based on the dog's measurements and body weight;
- b. does not choke the dog or impede the dog's normal breathing or swallowing; and
not cause pain or injury to the dog.

Provocation, regarding a dangerous dog means and includes trespass on property, teasing and release of the dog from its restraint, an attempt to

injure the dog or the dog's owner or the individual in possession thereof or other such actions. Entry on property by persons with actual or implied permission of the owner or occupant, including a postal service employee or other authorized government or service employee, shall not in and of itself be characterized as provocation. Provocation can also include actions by another animal which justifiably incited the attack. The burden of proof as to provocation shall be with the owner of the dog.

Restraint means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

Severe injury means any physical injury that results in broken bones, multiple punctures, or disfiguring lacerations, requiring sutures or cosmetic surgery.

Shelter-Neuter-Release (SNR)/Trap-Neuter-Release (TNR) means stray, owned or unowned, cats who are brought into the custody of the shelter, spayed/neutered, ear-tipped, vaccinated, and returned to location of pick-up.

Steel trap means a contraption which, when engaged, locks an animal or fowl in place by applying pressure against any part of its body.

Sterile/altered animal means an animal which has been surgically rendered incapable of producing offspring.

Unprovoked attack means an attack in which an animal without provocation as defined herein attacks or bites a human being or another animal.

Chapter 8-2.- ANIMALS GENERALLY

Sec. 8-2-1. - Trapping Animals

It is unlawful for any person to set or bait any steel leg-trap or other contrivance which would maim, mutilate or seriously injure any animal, excluding animals commonly referred to as vermin.

Sec. 8-2-2. - Striking or hitting an animal with a moving vehicle

It is unlawful for any person driving a vehicle to strike or hit any animal upon a public right-of-way or any public property without stopping and assisting the animal, or in the alternative notifying Memphis Animal Services or the Memphis Police Department immediately, excluding animals commonly referred to as vermin as contemplated in Code of Ordinances Title 9 Health & Safety.

Sec. 8-2-3. - Disposal of Animals

No person shall leave or throw into any stream or river, nor leave exposed or bury the body, or any part thereof, of any animal, nor shall the same be kept where it may be dangerous to the life or detrimental to the health of any person. The sanitation services division of the city shall be promptly notified by the owner/discoverer of any deceased animal and where it is located. The animal will be scanned for a microchip, animal services notified if a microchip or other identifying information is found, the deceased animal will then be removed and disposed of in a sanitary manner.

Sec. 8-2-4. - Roadside sale of animals prohibited

A. It shall be unlawful for any person, firm or corporation to attempt to sell, exchange, trade, barter, lease, rent, donate or display for a commercial purpose any animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.

B. This section shall not apply to any city animal shelter or nonprofit organization founded for the purpose of providing humane

sanctuary or shelter for abandoned or unwanted animals pursuant to TENN. CODE ANN. § 39-14-210 or any dealer licensed to sell at a flea market pursuant to TENN. CODE ANN. § 44-17-101 et seq.

C. This section shall not be construed to prohibit the sale of certain animals by those engaged in the business of selling the same for consumption and who have obtained the appropriate licenses or permits to conduct such activity.

D. This section shall not be construed to prohibit a properly licensed for-profit store from selling or donating any animals on the walkway or parking lot immediately adjacent to such store's physical address.

E. The sale, exchange, trade, barter, lease, rent, donation or display for a commercial purpose in violation of this section shall constitute for each animal a separate violation and be punishable by a fine in accordance with an amount allowed under state law for city ordinance violations.

F. Upon issuance of an ordinance summons for a violation of this section, the violator must immediately discontinue the activity.

Sec. 8-2-5. – Kennel Licenses

A. Persons desiring to operate a commercial kennel where dogs and/or cats are owned, bred and/or held for sale must have an active kennel license issued by Memphis Animal Services to operate.

B. Prior to moving any animals into the facility, the person must submit a request to Memphis Animal Services for a kennel inspection via the online inspection request form available on the city's website.

C. Within 30 days of receipt of the request the requester will be notified when their inspection will occur.

- D. At the time of inspection, an Animal Services officer will inspect the facility for adequate care and conditions and determine the maximum capacity of the facility.
- E. Once the inspection is complete, the owner must show proof of inspection in-person at Memphis Animal Services to purchase a kennel license in accordance with the current fee schedule as defined in this chapter.
- F. Persons holding an active kennel license shall not be required to pay the license fee prescribed in § 8-3-2, provided they can produce evidence that all dogs and cats on the property 12 weeks and older have been vaccinated for rabies and such vaccinations are current.
- G. A kennel license is valid for one year, beginning during the month of purchase and expiring during the same month of the following year, and thereafter purchased annually on the same basis. Renewals require a reinspection to verify capacity/ conditions at the facility and must be requested at least 30 days prior to the expiration of the existing license. No license is transferable.

Chapter 8-3.- DOGS & CATS

Sec. 8-3-1. - Animal Neglect and Animal Cruelty

- A. Pursuant to this chapter, animal services may impound any animal suffering from gross neglect as detailed herein or animal cruelty.
- B. Any person who shall, voluntarily or by necessity, take custody of any animal, on any property, shelter, or other place, shall supply to that animal adequate care, conditions, food, shelter, and water as defined in § 8-1-2 of this chapter.
- C. Owners/custodians shall not allow any companion animal that is pregnant, nursing, or less than six months old to remain outdoors

during inclement weather conditions unless such animal is accompanied by a custodian, keeper, or handler. In the event of extreme weather, as determined by the director of animal services, the owner/custodian must make alternate housing arrangements to ensure the health and safety of the pet if the provided shelter does not offer adequate protection from heat or cold exposure.

D. Inhumane transport of animals. No person shall carry or cause to be carried in or upon any vehicle or other conveyance, any creature in a cruel, inhumane, or unsafe manner. Whenever any person in violation of this section is taken into custody by an officer, the officer may take charge of such vehicle or other conveyance and its contents and deposit the same in some safe place of custody. Any necessary expense incurred for taking charge of and keeping and sustaining the vehicle or other conveyance and its contents shall be paid before the vehicle or other conveyance can be recovered.

E. Abandonment of dogs. No person may intentionally, knowingly, recklessly or with criminal negligence leave a dog at a location without providing adequate care as defined in this section, release a dog they have taken into their custody to run at-large, or tether the pet to a structure they do not own with the intent of abandonment. This includes dogs abandoned on the property of an animal shelter, veterinary clinic or any commercial or residential property.

F. If the Animal Services Director or an Animal Services Officer determines that evidence exists that any person has committed acts of animal neglect or cruelty knowingly, willfully or with gross neglect for the welfare of the animal, then misdemeanor or felony cruelty charges will be issued by the Memphis Police Department, in addition to any summons for an ordinance violation of this Chapter.

Sec. 8-3-2. - Dog license tags required / Cat Vaccination required

- A. Dogs—Licensing and vaccination. It is unlawful for any person to own, have, harbor, keep or to cause or permit to be harbored, or kept in the city, any dog three months old or over, unless a current city license tag has been issued for such dog, subject to the exceptions provided in § 8-2-5(F). Prior to the issuance of a city dog license tag, the animal must receive a vaccination for rabies, or the owner of the animal must provide evidence that such animal has been so vaccinated and such vaccination is still current. In addition to the cost of the rabies vaccination, a city dog license tag shall be required for a 12-month period, beginning during the month of purchase, and expiring during the same month of the following year, and a license must thereafter be purchased annually on the same basis, in advance of such expiration date. Fees vary based on whether the animal is fertile or sterile, in accordance with the city's current fee schedule as defined in this chapter.
1. No license is transferrable.
 2. A city dog license tag may be purchased from the veterinarian at the time of vaccination or can be purchased at Memphis Animal Services.
 3. If the license is purchased from a veterinary clinic, the veterinarian issuing the license may collect an agent's fee of \$1.00 for this service.
 4. If the license is purchased from a non-veterinarian source, such as Memphis Animal Services, the purchaser shall exhibit records from a licensed veterinarian, describing and identifying the animal and certifying its sterility, to pay the proper license fee. No license is transferable.
 5. In the event a dog tag or license is lost, stolen or unavoidably mutilated, or damaged, the owner may apply for a duplicate

license and tag. After investigation and upon payment of a fee in accordance with the city's current fee schedule as defined in this chapter, the director may, at their discretion, issue a duplicate license and tag.

- B. Cats—Vaccination. It is unlawful for any person to own, have, harbor, keep or to cause or permit to be harbored, or kept in the city, any cat three months old or over, unless such person holds a current certificate of rabies vaccination for each such animal, subject to the exceptions provided in § 8-2-5(F).
- C. The provisions of this section regarding licensing shall not apply to nonresidents traveling through the city or if the animal is staying temporarily for a period of less than 30 days.

Sec. 8-3-3. - Mandatory Spaying & Neutering of Cats & Dogs

No person shall own, harbor, or keep within the city a dog or cat which has not been spayed or neutered. It is a defense to prosecution under this section that:

1. The animal is under six (6) months old;
2. A licensed veterinarian has certified within the past year that the dog or cat should not be spayed or neutered for health reasons or is permanently infertile;
3. The animal is being held for adoption by animal services or an animal welfare organization with an active 501(c)3;
4. The dog is documented as having been appropriately trained and actually being used by public safety agencies for law enforcement or search & rescue activities, or such dogs designated as breeding stock for law enforcement or search & rescue by an appropriate agency or organization and approved by the director of animal services;

5. The dog is designated by an appropriate agency or organization as breeding stock for service dogs such as guide dogs, hearing dogs, assistance dogs, seizure alert dogs, or social/therapy dogs, and approved by the director of animal services;
6. The dog is appropriately trained and actually being used for herding of other animals, or as a livestock guardian dog, hunting dog, or such dogs designated as breeding stock for these functions by an appropriate agency or organization and approved by the director of animal services;
7. The dog or cat is registered with a purebred dog or cat club, approved by the director of animal services, that maintains and enforces a code of ethics for breeding that includes restrictions on breeding dogs and cats with genetic defects and life-threatening health problems common to the breed.
8. The owner produces to the court proof of sterilization from a licensed veterinarian showing the dog or cat was sterilized at the time the summons was issued, or not later than 30 days after the summons was issued; or
9. The owner holds a valid fertile permit under § 8-3-4.

Sec. 8-3-4. – Fertile Permit

- A. Owners of fertile pets and not qualifying for any of the exemptions listed in § 8-3-3 must purchase a fertile permit in person during regular business hours from the division of animal services in accordance with the current fee schedule as defined in this chapter.
- B. A separate permit is required for each unsterilized dog or cat. Each permit authorizes the whelping of no more than one litter per female in any 12-month period and no more than one litter per domestic household in any 12-month period.
- C. The dog or cat must follow the vaccination requirements as defined in the Sec. 8-3-2 of this chapter to be eligible for a fertile permit.

- D. The dog or cat must be microchipped to be eligible for a fertile permit.
- E. Animals impounded for violation of this chapter are not eligible for a fertile permit purchase at the time the animal is reclaimed at Animal Services and must be spayed/neutered before leaving the facility unless another exemption defined in this chapter is met.
- F. The director shall revoke a fertile permit if animal services determines that the permittee:
 - 1. Failed to comply with any provision of this chapter;
 - 2. Allows the offspring of a permitted dog or cat to be sold, adopted, or otherwise transferred, regardless of compensation, before the offspring have reached at least eight weeks old and have been vaccinated against common diseases;
 - 3. Intentionally made a false statement as to a material matter to obtain a fertile permit.

Sec. 8-3-5. -Mandatory Microchipping

- A. The owner or custodian of any dog or cat must have the animal implanted with a registered microchip before the animal is six (6) months old or within thirty (30) after acquired if over six (6) months.
- B. A dog or cat is exempt from this requirement if the dog or cat is determined in writing to be medically unsuitable for microchipping by a licensed veterinarian.
- C. The owner or custodian of a dog or cat shall maintain current registration with a microchip registration company.
 - 1. The owner or custodian shall update contact information, including new address or telephone number with the microchip registration company within thirty (30) days of the change in contact information.

2. After any change in ownership of a registered dog or cat, the initial owner or custodian shall be responsible for notifying the microchip registration company of a change in ownership within thirty (30) days of transfer to the new owner. The new owner or custodian shall be responsible for re-registering the microchip to have the registration information transferred to the new owner's or custodian's name within thirty (30) days after the change in ownership and for maintaining current contact information as described herein.

D. It is a violation of this ordinance for any owner or custodian to fail to microchip or maintain current registration as described herein.

E. It is a defense to prosecution under this section that:

1. The animal owner is a non-resident of this city or has been a resident of this city for fewer than thirty (30) days;
2. The animal is abandoned or lost and the temporary custodian possessed the dog or cat for fewer than thirty (30) days; or
3. The owner produces to the court proof of microchipping from a licensed veterinarian showing the dog or cat was microchipped at the time the summons was issued, or not later than 30 days after the summons was issued.

F. Memphis Animal Services shall be authorized to provide funds, if available, to defray the cost of microchipping any dog or cat for any owner that cannot afford the cost thereof.

Sec. 8-3-6. - Dogs Running at-large

A. Generally. Dog owners or custodians shall always keep animals on a leash or other suitable restraint (as defined in subpart C) or confined by a fence on their property or, with permission, the private property of another. Dogs shall be restrained to prevent the animal from being at-large; biting; harassing any person engaged in a lawful act; interfering with the use of public or private property; or violation of

any other section of this code. Unless confined by a fence or other suitable restraint, no animal shall be permitted to run at-large on the property of the owner or custodian of such animal.

B. Walking Dog on a Leash. Any person walking a dog on public property including sidewalks, or on the private property of others, must always keep the dog on a leash and under physical control. Physical control means the ability to restrain the movement of the dog. The leash must be kept in good condition, of sufficient strength to prevent breaking under pressure; and of material generally resistant to chewing or gnawing by an animal. The length of a leash must be sufficient to always control the dog from harassing pedestrians or other animals.

C. Methods of Restraint.

1. *Dog restrained by traditional fencing.* To prevent the dogs from escaping fencing must be in good condition and maintained, of recognized construction methods, and of adequate size for the number and size of dogs. Entry or exit gates must be properly secured by a latching or locking mechanism. Fences should be at least 2½ times the height of the animal it is intended to restrain. The height of the dog is measured at the dog's shoulder when the dog is standing on four legs. If should a dog escapes from a fence, either by climbing or digging, additional fencing height, kennels, or other restraint methods may be required. Fencing must be sufficient to make an in-heat female dog inaccessible to any male dog and prevent the female dog from running at-large. Existing fencing, regardless of height, will be considered acceptable means of restraint unless and until a written and verified complaint is filed with Memphis Animal Services.

2. *Dogs restrained by invisible fencing.* As an alternative to traditional fencing, tie-outs or overhead cable runs, a dog may be

restrained with invisible fencing properly set up and maintained. The following conditions must be met:

- a. The system must be rated for use by dogs, installed according to manufacturer's instructions, and properly maintained.
 - b. The dog must receive training regarding the boundaries of the fencing.
 - c. The fencing must be sufficient to make an in-heat female dog inaccessible to any male dog and prevent the female dog from running at-large.
 - d. Two warning signs of a minimum six inches by eight inches (6"x8") visible from the public sidewalks and public streets or driveways must be placed on the fenced yard. The signs must include the following: "Dog is contained by electronic device" or similar wording, the name, logo/trademark, address and telephone number of either the company that installed the system or the company that maintains the system.
3. *Dog restrained by tethering.* As an alternative to fencing, dogs may be restrained by tether. No person shall allow any dog restrained by tether to remain outside and unattended unless ALL of the following conditions are satisfied:
- a. The tether is not unreasonably heavy in proportion to the weight of the animal.
 - b. A swivel is located at both ends of the tether and the tether is free of tangles.
 - c. The collar or harness on the animal to which the swivel is attached is a properly fitted collar or harness as defined in this chapter. The collar must be made of a material which poses no risk of lacerations. Choke and pinch collars are not permitted on tethered dogs.
 - d. The tether is not less than 10 feet in length.

- e. At all times, the animal has access to water, shelter, dry ground free of standing water and animal waste, and access to adequate food.
- f. The animal is at least 3 months old and has a current rabies vaccination with its tag visibly displayed.
- g. The animal is not sick or injured.
- h. If used, pulley, running line, or trolley systems are installed according to manufacturer's instructions and do not pose a safety risk to the dog.
- i. If there are multiple animals, each animal must be tethered separately.
- j. The tethering device shall allow the tethered dog to lie down comfortably in all positions of tether.
- k. Dogs restrained by tie-outs or overhead cable runs must be spayed or neutered, even if otherwise subject to any exemption in this chapter.

D. *Exemptions*

- 1. Dogs employed as police, service, therapy and search and/or rescue dogs are exempt from the requirements of this section while used in their working capacity or while engaged in a training program with a recognized organization or government agency that regularly trains dogs for such use.
- 2. Dogs off-leash in areas designated for such use by departments of city government, or on grounds under their jurisdiction, and dogs engaged in conformation, competition, or performance related events on public or private property.

E. *Prima Facie Evidence.* If a dog is found running at-large by animal services employees, the incident shall constitute prima facie evidence that current restraint methods are inadequate. The owner shall be required to correct any conditions that permitted the dog to run-at-large or provide such additional restraints as necessary to secure and maintain the restraint of the dog.

Sec. 8-3-7. - Defecation by Dogs or Cats

- A. It is unlawful for any owner/custodian of any dog or cat to fail to promptly remove and dispose in a sanitary manner of feces left by a dog or cat on property, public or private, other than the premises of the owner or custodian of such dog or cat.
- B. Persons owning pet dogs or service dogs, such as seeing eye dogs, who are legally blind or confined to a wheelchair and thereby physically incapable of disposing of feces left by their animal, are exempt from this law.

Sec. 8-3-8. - Guard Dogs

It is unlawful for any person to place or maintain guard dogs in any area of the city for the protection of persons or property unless the following provisions are met:

1. The guard dog shall be confined, or the guard dog shall always be under the absolute control of a custodian when not confined by way of lead or leash.
2. The owner or other persons in control of the premises upon which the guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or 50 feet, whichever is less, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached 24 hours a day.
3. The above provisions shall not be applicable to dogs used in law enforcement by federal, state, or local law enforcement agencies.

Sec. 8-3-9. - Examination for Rabies

A. If any dog or cat has bitten any person and breaks the skin or is suspected of being infected with rabies, it shall be the duty of the owner or custodian to notify Memphis Animal Services within twenty-four (24) hours of the bite, and to quarantine the pet for a ten (10) day period. The animal shall be restricted to a building, pen, or other escape-proof enclosure and monitored for signs of rabies. Signs and symptoms of rabies can be found in the National Rabies Compendium on the Centers for Disease Control and Prevention website available at www.cdc.gov.

B. *Quarantine*

1. Within twenty-four (24) hours of the bite incident or first indication of rabies, the owner/custodian must contact Memphis Animal Services to provide proof of current rabies vaccination and to begin quarantine process at home or at a licensed veterinary clinic.
2. The owner/custodian must provide secure containment for the animal during the quarantine. If on day eleven (11) the pet is exhibiting symptoms consistent with rabies, the owner must present the pet to a licensed veterinarian for examination. Written certification from the examining veterinarian of negative rabies status shall be provided to Memphis Animal Services within twenty-four (24) hours of receipt from veterinarian.
3. The owner/custodian must complete all documents provided by Memphis Animal Services to fulfill compliance requirements for this section.
4. At the end of the quarantine period and no later than thirty (30) days of the bite incident, the animal must provide proof of or, if not previously, be fitted with a microchip implant and

spayed/neutered even if otherwise subject to any exemption in this chapter.

C. Special Circumstances

1. The director of Memphis Animal Services may order the quarantine completed at the MAS facility if the attack resulted in a severe bite, mauling, and/or human death, the animal has a history of running at-large, or the animal is not properly confined by the owner during the quarantine period.
2. Any stray, unowned, or apparently abandoned animal that bites a human being will be held for ten days. At the end of the ten-day holding period, the animal may be euthanized in an expeditious and humane manner. Any animal determined to have been involved in a bite incident and held for less than ten days shall be tested at the state laboratory for rabies.

Sec. 8-3-10. - Dangerous Dogs; Determination of Dangerous Dog

A. If an animal services officer initially determines that a dog should be classified as dangerous as defined in this chapter or under Tennessee Code Annotated § 44-17-120 (a), notification will be sent to the owner or other responsible party. A mandatory ordinance summons shall be issued to the owner/custodian by the animal services officer citing the code section violated and setting a date to appear in a court of competent jurisdiction for a determination. Any decision of the court shall be final, subject to appeal to a higher court of competent jurisdiction.

1. In the alternative a petition may be filed by Memphis Animal Services with the general sessions court, pursuant to TENN. CODE ANN. § 44-17-120 (b), for a disposition order for the dangerous dogs or dogs causing death or serious bodily injury to humans or other animals.

2. If the owner does not appear before the court within five (5) days of the receipt of notice and show cause why the dog should not be destroyed, then the order shall issue and the dog shall be destroyed.
- B. Upon receipt of summons, the owner/custodian shall place their pet into a secure boarding facility until a final decision is issued by a judge. The owner/custodian has following options for secure boarding:
1. Upon payment of security bond to Memphis Animal Services according to the current fee schedule as defined in this chapter, the owner/custodian may board the dog at a licensed veterinary clinic at the owner/custodian's sole expense. The veterinary clinic must confirm in writing to the animal shelter director that the animal will be boarded in a private, licensed veterinary clinic. The purpose of the security bond is to insure compliance pending all court appearances.
 2. Alternately, without a security bond and at the owner/custodian's request and sole expense, the dog may be kept at Memphis Animal Services. The owner shall pay the daily boarding rate for each day or fraction thereof the dog remains at the shelter in accordance with the current fee schedule as defined in this chapter. The owner must pay for thirty (30) days of care in advance. After the initial payment and until the court authorizes the release of the animal, the owner/custodian must pay the charge in advance, keeping the account ahead thirty (30) days.
 3. Alternately, the owner/custodian may elect to surrender the dog to Animal Services with a signed document requesting the dog be euthanized.

4. All payments to Memphis Animal Services must be made within ten (10) days of issuance of the summons or within twenty-four (24) hours of the defendant's initial court appearance whichever comes later. If the bond or boarding fees are not paid as required in this section, the animal shall be deemed forfeited.

5. After the satisfaction of fees, fines, and/or court-ordered payments, overpayments shall be returned to the owner/custodian within a reasonable time after of the final disposition of the case.

C. Failure of an owner to respond to the ordinance summons shall result in the animal being declared a dangerous dog by operation of law. The owner/custodian is deemed to have waived all rights to a hearing on the dog's classification. The animal shall be surrendered to Memphis Animal Services immediately or it shall be impounded. A show cause notice shall be issued requiring the owner/custodian to appear before the court within five (5) days to show cause why the dog should not be euthanized. The show cause hearing is solely for determination of the issue of euthanasia. Failure to appear or show cause will result in entry of a final surrender and disposition order permitting the dog to be euthanized.

Sec. 8-3-11. - Dangerous Dogs; Duty of Owner of Dangerous Dog

Upon conviction, a court of competent jurisdiction may order the defendant to:

A. Enroll, attend, and complete an approved animal behavior modification at the owner/custodian's expense.

B. Registration and Tag.

1. Within thirty (30) days after an animal is classified as dangerous, the owner of the animal must obtain a dangerous

dog tag for the animal from Memphis Animal Services. The tag shall be worn by the dog at all times and renewed annually. The animal services director, or their designee, is only authorized to issue such tags and renewals to persons who are at least eighteen (18) years old and who present to the animal services director, or their designee, sufficient evidence of:

- a. A current certificate of rabies vaccination for the animal;
- b. A proper enclosure to confine a dangerous animal and the posting at all entry points of the premises a clearly visible warning sign of a dangerous animal on the property or premises which reads:

Warning
Dangerous Dog on Premises

- c. Proof that the dog has been spayed/neutered and microchipped;
- d. Proof of a current public liability insurance policy or a bond of not less than fifty thousand dollars (\$50,000.00) insuring the owner of the animal for any damages, whether arising from personal injury or otherwise, which may be caused by the dangerous animal. Such policy must provide for thirty (30) days' notice to the City of Memphis Animal Services prior to cancellation or expiration of the policy. In the event such liability insurance or bond is canceled, lapses, or for any other reason becomes unenforceable, the owner shall be in violation of the provisions of this chapter and title;
- e. Payment in accordance with the current fee schedule as defined in this chapter for the issuance of a dangerous dog tag.

2. If the owner/custodian does not obtain a dangerous dog tag within thirty (30) days or fails to comply with any of the conditions listed herein, the classified dog shall be forfeited and must be immediately surrendered to Memphis Animal Services or shall be impounded by an animal services officer.
3. The owner/custodian shall immediately notify the appropriate animal control authority when an animal that has been classified as dangerous:
 - a. Is running at-large or unconfined;
 - b. Has bitten a human being;
 - c. Is sold, given away, or dies; prior to a dangerous animal being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority; any new owner residing in the city must comply with all the requirements of this chapter and title without further order of the court.
 - d. Is moved to another address.

B. Confinement outdoors.

1. All dangerous dogs shall be confined in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in this section.
2. Such pen, kennel or structure shall be at least 20 feet from any street or sidewalk, ten feet from any property line and must have secure sides and a secure top to the structure.
3. Such structures must be locked with a key or combination lock when any animal is within the structure.
4. Such structure must have a secure concrete bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet.

5. All structures erected to house dangerous animals must be a minimum of six feet by ten feet (6'x10') enclosure and comply with all zoning and building regulations of the City.
 6. All such structures must meet the definition of adequate shelter as defined in this chapter and must be inspected and approved by Memphis Animal Services.
- D. *Confinement indoors.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building of its own volition. In addition, no such animal may be kept in a house or structure when any unbarred window is open or when any screened window or screen door is the only obstacle preventing the animal from exiting the structure.
- E. *Leash and muzzle.*
1. No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed with a substantial restraint no longer than four feet in length.
 2. No person shall permit a dangerous animal to be kept on rope or other type of leash outside of its kennel or pen unless a competent person at least 18 years old is in physical control of the restraint.
 3. Such animal may not be leashed to inanimate objects.
 4. All dangerous animals on a leash outside the animal's kennel must be muzzled to prevent such animal from biting persons or other animals. The muzzle should not cause injury to the animal or interfere with its vision or breathing but shall prevent it from biting any person.

- F. Any dog charged as dangerous, notwithstanding a later finding of not guilty, must be fitted with a microchip implant and spayed/neutered within thirty (30) days of the biting incident with no exceptions.

Chapter 8-4 - LIVESTOCK & FOWL

Sec. 8-4-1. – Neglect of Livestock and Fowl

No livestock or fowl shall be kept or confined where the water, shelter, ventilation, and food are not sufficient and wholesome for the preservation of its health and safe condition. No animal or fowl shall be kept in such place or condition as to become a nuisance either because of odor or contagious disease.

Sec. 8-4-2. - Running at-large of Livestock and Fowl

It is unlawful for any person in charge of any animal defined in this chapter as livestock to permit it to run at-large upon any street, alley or unenclosed lot within the city.

Sec. 8-4-3. - Keeping of Livestock Within 1,000 feet of Residence or Business

No person shall keep livestock within one thousand feet (1,000') of any residence or place of business in the city without a permit to do so from the health officer. The health officer shall issue permits only when the keeping of such animals in the yard or buildings, and under the circumstances set forth in the application for the permit, shall not injuriously affect the public's health. Domesticated pigs or other livestock that meet the definition of companion animal in this chapter are exempt from this provision.

Sec. 8-4-4. - Killing Birds

- A. The killing or attempting to kill any bird, other than domestic fowl, within the limits of the city, is prohibited, except as hereafter provided.
- B. For control purposes and to alleviate public distress, and to promote public health, owners of private residential property and public commercial property are authorized to destroy or otherwise remove pigeons and/or birds located within the boundaries of their property, and to dispose of them in accordance with sanitation services procedures. In addition, such property owners may contract with pest control companies properly licensed and bonded by the state for the removal and disposition of pigeons or birds from their property. Such pest control companies shall dispose of such pigeons and/or birds in accordance with sanitation services procedures.
- C. Whenever a homing pigeon bearing a ring or seamless leg-band with its registered number stamped thereon, or any protected wild bird, is found among pigeons trapped under this section, the same shall immediately be released from custody.
- D. This section shall not be construed to permit the use of firearms to destroy pigeons and birds, and such use is expressly prohibited.

Sec. 8-4-5. - Unlawful to Sell Fowl as Pets or Novelties

- A. It is unlawful for any person, firm, or corporation to display, sell, offer for sale, barter, or give away chicks or ducklings as pets or novelties. It shall further be unlawful for any person, firm or corporation to dye, color or otherwise artificially treat any animal or fowl.
- B. This section shall not be construed to prohibit the display or sale of natural chicks, ducklings, or other fowl by those engaged in the business of selling the same to be raised for food purposes.

Chapter 8-5. - MEMPHIS ANIMAL SERVICES

Sec. 8-5-1. - Establishment and Supervision

Memphis Animal Services is established under the Executive Division of the city of Memphis. The operation and management of such service center shall be under the supervision of the director of Animal Services.

Sec. 8-5-2. - Business Hours

Memphis Animal Services shall post in a conspicuous and prominent location at the shelter and on the shelter's website the business hours as designated by the animal services director, subject to concurrence by the Chief Operating Officer of the city of Memphis.

Sec. 8-5-3. - Badges, Uniforms and Police Power of Animal Services Officers

- A. Animal Services officers shall wear badges and uniforms identifying them as such and shall have the necessary police powers for the enforcement of this chapter. Animal Services officers shall have the authority to issue ordinance summonses related to violations of this chapter or state law summons for such violations.
- B. Pursuant to Tennessee Code Annotated § 39-14-207(a), an animal services officer, who has a reasonable belief that an animal inside a home, fenced in yard, behind a locked gate, or in a vehicle has been without necessary food and water for more than twelve (12) successive hours, may, as often as necessary, enter any place in which any animal is so confined, and to supply it with necessary food and water for as long as it remains so confined. That person shall not be liable for such entry to any person in any legal action, and the reasonable cost of the food and water may be collected from the owner or keeper of the animal. The animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

- C. If an animal services officer who has a reasonable belief that an animal inside a home, fenced in yard, behind a locked gate, or in a vehicle needs emergency care, or that there is an imminent threat to the life or welfare of an animal behind one of these barriers, the officer may make entry to any place in which any animal is so confined for the purpose of taking temporary custody of the animal but only after obtaining a warrant, except that a warrant shall not be required if the animal services officer has a good faith belief that the animal has a medical condition or injury of such a nature that the failure to render immediate care would reasonably likely result in the animal's imminent death and otherwise complies with Tennessee Code Annotated § 39-14-215.
- D. Any animal that is found to be injured, diseased, suffering from the elements or malnourished and abandoned as defined in this chapter may be taken into temporary custody by an animal services officer.
- E. Upon taking temporary custody of any animal under this section, the animal services officer shall attempt to contact the owner of the animal and shall seek emergency veterinary care for the animal, if necessary, as soon as available. The officer shall leave notification of temporary custody at the location the animal was found or at the registered address of the owner if the owner cannot be reached. The owner of the animal is responsible for any costs of providing care to the animal.

Sec. 8-5-4. - Resisting or Interfering with Animal Shelter Employee

It is unlawful for any person to resist or interfere with an animal services employee in the performance of their duties.

Sec. 8-5-5. - Aid and Assistance by Police

It shall be the duty of all police officers to render any assistance necessary.

Sec. 8-5-6. – Enforcement; Issuance of Ordinance Summons

Any ordinance summons issued pursuant to this chapter shall be left with the offender and shall provide information related to the offense charged and the time and place when such offender is to appear in court. Failure of the offender to appear in court shall result in a default judgment against the offender in an amount allowed under state law for city ordinance violations, and/or a warrant issued in accordance with Tenn. Code Ann. § 7-63-204.

Sec. 8-5-7. – Enforcement; Limitation on Action for Violations

A. No action shall be commenced by the city in any court for the purpose of enforcing any violation of animal violation sections of the Code of the city after one year from the commission of the offense.

For this section a court action shall be deemed to be commenced:

1. Upon the issuance of an ordinance summons to the offender;
2. Upon the arrest of the offender; or
3. Upon the issuance of an arrest or bench warrant for the offender.

B. A summons may be served by:

1. Personal service on the offender; or
2. Registered or certified mail, addressee only, return receipt requested.

Sec. 8-5-8. – Enforcement; Dismissal or Entering Nolle Prosequi Not Prohibited

Nothing herein shall prevent the city through the city attorney's office from dismissing or entering a nolle prosequi of any ordinance summons in open court. Such ordinance summons shall be dismissed if it shall be determined that the summons was issued to a nonresident and is deemed uncollectible; there is a lack of proof; or for such other valid reason as stated to the court.

Sec. 8-5-9. – Enforcement; Violation-Penalty

A person in violation of any part of this chapter is guilty of a city ordinance violation. Upon conviction, a court of competent jurisdiction may order the defendant to:

1. Pay fines in accordance with an amount allowed under state law for city ordinance violations. Each day that any violation of this chapter continues may constitute a separate offense.
2. Be precluded from owning, harboring, or having custody or control of companion animals permanently, or for a period that the court deems reasonable.
3. Participate in available animal cruelty prevention programs and educational programs or both.
4. Undergo a behavioral health evaluation and comply with any recommendations resulting from the evaluation.
5. Forfeit to Memphis Animal Services animals that are the basis of conviction.
6. Sterilize the companion animals. Sterilization is mandatory upon a second violation.
7. Payment of all costs and expenses of enforcement of this ordinance, including veterinary treatment and care, and feeding and housing of animals surrendered or forfeited under this ordinance.
 - a. Failure to pay any portion of fees and costs shall result in a lien upon the property of the owner subject to the City ordinance and State law.

- b. Liens shall be enforced by attachment proceedings in any court of competent jurisdiction and payment made directly to Memphis Animal Services.

Sec. 8-5-10. – Impoundment and Redemption of Cats

A. Impoundment

1. *First Impoundment.* Any non-community cat found running at large, abandoned or subject to neglect, cruelty or any of the conditions described Section 8-5-3 or is not in compliance with any other provision of this Chapter may be apprehended and impounded in the city animal shelter, and the owner notified, if known. If such cat has any ownership identification (tag, microchip, etc.), it shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment of reclaim fees for impound and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and the animal may be designated for disposition by the animal shelter director or their designee. If no ownership identification exists, the cat can be deemed a community cat and the seventy-two (72) hour stray hold does not apply. If the cat is deemed a community cat and is not in need of medical attention, it shall be sterilized, ear-tipped, and returned to the location it was found. If the cat is less than twelve (12) weeks old and no ownership identification exists, the kitten can be immediately placed for adoption, and a seventy-two (72) hour stray hold does not apply.
2. *Second Impoundment.* Should a cat belonging to the same owner be picked up for a second time within two years of the date of the first offense, the owner may redeem and repossess the cat upon payment of reclaim fees for 2nd impound and boarding in accordance with the current fee schedule as defined in this

chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.

3. *Third Impoundment.* Should a cat belonging to the same owner be picked up for a third time within three years of the date of the first offense, the owner may redeem and repossess the cat upon payment of reclaim fees for 3rd impound and boarding in accordance with the current fee schedule as defined in this chapter. The owner also must receive a summons for animal neglect as defined in this chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.

B. *Fees and Costs.* Impoundment fees for any cat confiscated and held pending a court ruling for violations of § 8-3-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, et seq.) must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

C. *Sterilization.* Any unaltered cat that is not eligible for an exemption to the mandatory spay/neuter ordinance as defined in this chapter will be altered before discharge from Memphis Animal Services. Exemption 1 (under six (6) months old) of the mandatory spay/neuter ordinance does not apply for cats brought into the shelter, if a licensed veterinarian determines the cat is of sufficient age and weight to proceed with sterilization. A fertile permit cannot be purchased after a lawful impound occurs.

D. *Microchip Implant.* Before release into the owner's custody, the director of animal services is authorized to have a veterinarian humanely implant any animal lawfully impounded with an electronic microchip that will allow the animal to be positively identified.

Sec. 8-5-11. – Impoundment and Redemption of Dogs

A. Impoundment

1. *First Impoundment.* If any dog is found running at large, abandoned or subject to neglect, cruelty or any of the conditions described Section 8-5-3 or is not in compliance with any other provision of this Chapter an animal services officer shall have the authority to apprehend and impound such dog in the city animal shelter, and the owner notified, if known. Such dog shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment for, or presentation of, a current license therefor, and payment of reclaim fees for impound and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and the animal may be designated for disposition by the animal shelter director or their designee. If the dog is less than 12 weeks old and no ownership identification exists, the puppy can be immediately placed for adoption, and a seventy-two (72) hour stray hold does not apply.

2. *Second Impoundment.* Should a dog belonging to the same owner be picked up for a second time within two years of the date of the first offense, the owner may redeem and repossess the dog upon presentation of a current license thereof and payment of reclaim fees for 2nd impound and boarding in accordance with the current fee schedule as defined in this chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.

3. *Third Impoundment.* Should a dog belonging to the same owner be picked up for a third time within three years of the date of the first offense, the owner may redeem and repossess the dog upon payment of reclaim fees for 3rd impound and boarding in accordance with the current fee schedule as defined in this chapter. The owner also must receive a summons for dog running at-large as defined in this chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.

B. *Fees and Costs.* Impoundment fees for any dog confiscated and held pending a court ruling for violations of § 8-3-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, *et seq.*) must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset

for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

C. *Sterilization.* Any unaltered dog that is not eligible for an exemption to the mandatory spay/neuter ordinance as defined in this chapter will be altered before discharge from Memphis Animal Services, and a fertile permit cannot be purchased after a lawful impound occurs. Additionally, exemption 1 of the mandatory spay/neuter ordinance does not apply for dogs brought into the shelter, if a licensed veterinarian determines the dog is of sufficient age and weight to proceed with sterilization.

D. *Microchip Implant.* Before release into the owner's custody, the director of animal services is authorized to have a veterinarian humanely implant any animal lawfully impounded with an electronic microchip that will allow the animal to be positively identified.

Sec. 8-5-12. – Impoundment, Redemption and Disposition of Livestock

A. Livestock found running at-large in violation of this chapter may be apprehended and placed into the animal shelter. Such livestock shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment of reclaim fees for impound, trailering fees, and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and may be designated for disposition by the animal shelter director or their designee.

B. Impoundment fees for any livestock confiscated and held pending a court ruling for violations of § 8-4-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, et seq.)

must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

Sec. 8-5-13. – Impoundment, Redemption and Disposition of Fowl

- A. Fowl found running at-large in violation of this chapter may be apprehended and placed into the animal shelter. Such fowl shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment of reclaim fees for impound and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and may be designated for disposition by the animal shelter director or their designee.
- B. Impoundment fees for any animal confiscated and held pending a court ruling for violations of 8-4-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, et seq.) must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the

court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

- C. The director of animal services, or designated staff member, is authorized to waive fees related to reclamation on a case-by-case basis.

Sec. 8-5-14. – Adoption of Animals

Once an animal becomes the property of Memphis Animal Services by any method described in this chapter, the animal may be adopted in accordance with current adoption policies as enacted by the director of animal services, and upon payment of an adoption fee, licensing fee and fees for any other service supplied by Memphis Animal Services in connection with such animal. Each unaltered dog and/or cat will be sterilized by the shelter veterinarian prior to leaving the shelter, unless it is determined by the director of animal services that the pet should not be altered. Any individual taking an unaltered dog or cat from the shelter must comply with applicable ordinances and policies relating to unsterilized animals. If it is determined that a former owner of an animal is applying for adoption, such former owner may only regain

ownership or possession by payment of redemption fees set forth in the current fee schedule as defined in this chapter.

Sec. 8-5-15. – Euthanasia of abandoned or neglected animals

The director of animal services, or their designee, may lawfully euthanize immediately, or cause to be euthanized immediately, any animal that is legally the property of the City of Memphis, or that is suffering, and euthanasia will end that suffering.

Sec. 8-5-16. – Animal Services Advisory Committee

There is hereby created the animal services advisory committee, consisting of seven citizens of the city, who shall be appointed by the mayor, subject to approval of the city council, for a term of two years or until their successors are appointed and qualified, and who shall serve without compensation, or oath. The director of animal services shall be an ex officio member of such committee.

- A. Chairperson & Secretary. The chairperson and the secretary of the animal services advisory committee shall be designated by the mayor when making appointments to the committee.
- B. Rules and Regulations. The animal services advisory committee shall have the power to make rules and regulations for the conduct of its business. Such committee shall meet as prescribed by its rules, and upon call of its chairperson.
- C. Powers & Duties. The animal services advisory committee shall:
 - 1. Provide guidance and support to the director of animal services based on each individual committee member's area of expertise.
 - 2. Serve as community liaisons for animal services, helping spread messaging regarding quality pet ownership and how to access resources through MAS.

3. Support and advocate for progressive animal control and sheltering programming to keep Memphis in alignment with national best practices.

Sponsored by
Administration

Chairman
Martavius Jones

**RESOLUTION TO AMEND THE CITY OF MEMPHIS FY24 CAPITAL
IMPROVEMENT BUDGET**

WHEREAS, the Mayor submitted to the Council of the City of Memphis on April 25, 2023, a recommended Operating Budget and Capital Improvement Program Budget for the fiscal year ending June 30, 2024; and

WHEREAS, the Budget Committee of the Council has held meetings and thoroughly reviewed the recommended Operating and Capital Improvement Program Budgets and have proposed amendments thereto; and

WHEREAS, the Council has identified a need for funds to be allocated to other projects that serve the City of Memphis and significantly contribute to its growth and development; and

WHEREAS, the success of projects and programs designed to increase public safety, access to affordable housing and transportation, and the availability of programs for the benefit of youth and communities continues to be a priority for the Memphis City Council and the people of Memphis; and

WHEREAS, it is the intent of the Council to use its authority to ensure those priorities receive adequate resources to achieve the greatest impact.

NOW, THEREFORE, BE IT RESOLVED that the Memphis City Council hereby amends the FY24 CIP budget by reducing the Memphis Parks FY24 Proposed CIP Budget by \$150,000.00 and allocates and appropriates to a Raleigh Community Center Coverline for additional safety and security measures.

SPONSORS
Rhonda Logan

CHAIRMAN
Martavius Jones

SUBSTITTUE RESOLUTION TO AMEND THE CITY OF MEMPHIS FY24 CAPITAL IMPROVEMENT BUDGET

WHEREAS, the Council of the City of Memphis on June 27, 2023, approved the Operating Budget and Capital Improvement Program Budget for the fiscal year ending June 30, 2024; and

WHEREAS, the Council has identified a need for funds to be allocated to other projects that serve the City of Memphis and significantly contribute to its growth and development; and

WHEREAS, the success of projects and programs designed to increase public safety, access to affordable housing and transportation, and the availability of programs for the benefit of youth and communities continues to be a priority for the Memphis City Council and the people of Memphis; and

WHEREAS, it is the intent of the Council to use its authority to ensure those priorities receive adequate resources to achieve the greatest impact.

NOW, THEREFORE, BE IT RESOLVED that the Memphis City Council hereby amends the City of Memphis FY24 Capital Improvement Budget:

- i.** Transfer \$150,000 from Project# PK23100 “Parks Coverline” to a new project to be named “Raleigh Community Center Coverline.”
- ii.** Transfer \$90,000 from Project# EN23200 “Traffic Calming Devices Coverline” to a new project to be named “Northlake Apartments Sidewalks.”

SPONSORS
Rhonda Logan

CHAIRMAN
Martavius Jones