SHELBY COUNTY BOARD OF COMMISSIONERS
AGENDA ROUTE SHEET

Referred to Commission Committee Land Use

For Commission Action on November 3, 2008

DESCRIPTION OF ITEM:

A Joint Ordinance Amending the Memphis and Shelby County Zoning Ordinance-Regulations Adopted by the Shelby County Board of Commissioners on October 6, 1980, and by the Council of the City of Memphis on October 7, 1980, Being Resolution and Ordinance No. 3064, As Amended, So As to Make Certain Changes Therein As Follows:

Amend Appendix A, Zoning, Section 2 to add new definitions for financial Services, title loan establishment and payday loan establishment.

Amend Chart 1 by adding new use categories and use standards for pay day loan and title loan establishments.

ZTA No. 08-001CC. Sponsored by Commissioner Carpenter

CHECK ALL THAT APPLY BELOW:

Y This Action does NOT require expenditure of funds.

_____ This Item requires/approves expenditure of funds as follows (complete all that apply):

County General Funds: $_____ ; County CIP Funds- $_____

State Grant Funds: $_____; State Gas Tax Funds: $_____

Federal Grant Funds: $_____

Other funds (Specify source and amount): $_____

Other pass-thru funds (Specify source and amount): $ _____

Originating Department: DPD

APPROVAL:

	(Type your name & phone #.)	(Initials)	(Date)
Dept. Head:	Mary L. Baker # 7141	MLB	10/23/08
Elected Official:			
Division Director:	Richard S. Copeland # 7197	RSC by MLB	10/23/08
CIP – A&F Director:			
Finance Dept.			
County Attorney:	Robert B Rolwing, # 5133	RBR	10/23/08
CAO/Mayor:	Grace Hutchinson 545-4429	GH	10-23-08

SUMMARY SHEET

I. Description of Item

This is a joint ordinance to amend the joint City-County Zoning Code. This ordinance proposes new definitions of financial services, Title loan establishments, and Payday loan establishments. It proposes new use categories and spacing requirements of 1,000 feet between A duly organized and recognized place of worship; A public or private elementary or secondary school; A public or private day care facility or kindergarten; A public or private park; A boundary of a residential or landmark district; or any other payday loan, or title loan, establishment.

These uses are concentrated in neighborhoods whose residential and business areas are showing signs of distress and need special protection to avoid further decline. The purpose of these spacing requirements is to avoid the detrimental effects on neighborhoods resulting from a concentration of these uses.

II. Source and Amount of Funds

A. Amount Expended — Budget Line Item

Unknown

B. All Costs

C. Additional or Subsequent Obligations or Expenses of Shelby County

III. Contract Items

N/A

IV. Additional Relevant Information

Memphis and Shelby County Office of Planning and Development

CITY HALL 125 NORTH MAIN STREET ROOM 476 MEMPHIS, TENNESSEE 38103-2084

(901) 576-6619

TO: Shelby County Attorney, ATTN: Mr. Robert Rolwing

FROM: Thomas Pacello, Assistant City Attorney

PREPARED BY: Thomas Pacello

DATE: October 23, 2008

SUBJECT: FORWARDING OF RESOLUTION FOR CASE NO: **ZTA 08-001CC**

Attached, please find forwarding material for the above referenced item to be heard by the County Board of Commissioners.

FORWARDING MATERIALS Zoning Text Amendment (COPIES)

(1) Complete Application: NOT APPLICABLE TO ZTA

(15) Staff Report — Memo to Land Use Control Board from County Attorney & Copy of Existing Nonconforming Regulations

(15) LUCB Recommendation

ORDINANCE/RESOLUTION (Original and One Copy)

NOTICE FOR DAILY NEWS (Original and One Copy)

NOTICE TO OWNERS: NOT APPLICABLE TO ZTA

ITEM # _____ **PREPARED BY:** Mary Baker - OPD

APPROVED BY: _____

JOINT ZONING ORDINANCE NO. _____

JOINT ORDINANCE AND RESOLUTION (ZTA 08-001 CC) AMENDING THE JOINT MEMPHIS AND SHELBY COUNTY ZONING ORDINANCE – REGULATIONS ADOPTED BY THE SHELBY COUNTY BOARD OF COMMISSIONERS ON OCTOBER 6, 1980, AND THE CITY COUNCIL OF THE CITY OF MEMPHIS ON OCTOBER 7, 1980, BEING RESOLUTION AND ZONING ORDINANCE NO. 3064, AS AMENDED, SO AS TO MAKE CERTAIN CHANGES THEREIN AS FOLLOWS:

AMEND THE ZONING REGULATIONS TO ADOPT DEFINITIONS FOR FINANCIAL SERVICES, PAYDAY LOAN ESTABLISHMENTS, AND TITLE LOAN ESTABLISHMENTS AND TO CREATE NEW USE CATEGORIES FOR PAY DAY LOAN ESTABLISHMENTS AND TITLE LOAN ESTABLISHMENTS AND TO ESTABLISH LOCATION AND DISTANCE SEPARATION REQUIREMENTS FOR PAYDAY, AND TITLE LOAN ESTABLISHMENTS. SPONSORED BY COMMISSIONER MIKE CARPENTER

WHEREAS, there exist business lending practices, commonly referred to as "payday" lending practices, whereby lending businesses advance money on paychecks of low and financially challenged persons, subject to high interest rates; and

WHEREAS, there exist business lending practices, commonly referred to as "title loan" establishments, whereby the lending businesses advance short term loans to an applicant which are typically secured by the applicant's car title and which are subject to high interest rates; and

WHEREAS, payday lending, and title lending establishments have a tendency to cluster together in economically depressed neighborhoods further driving down to value of both residential and commercial property; and

WHEREAS, citizens of Shelby County and the City of Memphis have expressed concerns over what are perceived to be exploitive payday and title loan lending practices in Shelby County and Memphis, Tennessee; and

WHEREAS, from the following studies, the County Board of Commissioners and the Memphis City Council find that payday and title loan establishments may have a deleterious effect on the neighborhoods in which they locate, negatively impacting economic development efforts, decreasing property values and targeting the most vulnerable citizens, see for example:

> Amanda Quester & Jean Ann Fox, *Car Title Lending: Driving Borrowers to Financial Ruin,* the Center for Responsible Lending and the Consumer Federation of America; (2005).
>
> Uriah King, Wei Li, Delvin Davis & Keith Ernst, *Race Matters: The Concentration of Payday Lenders in African-American Neighborhoods in North Carolina*, the Center for Responsible Lending, (2005).
>
> University of North Carolina Center for Community Capital, *North Carolina after Payday Lending: Attitudes, Experiences, Credit Options*, North Carolina Commissioner of Banks, (2007 w/ 2008 update).
>
> Michael A. Stegman & Robert Faris, *Payday Lending: A Business Model that Encourages Chronic Borrowing*, Economic Development Quarterly, Vol. 17 No. 1, (2003).
>
> Michael A. Stegman, *Payday Lending*, Journal of Economic Perspectives, Vol. 21 No. 2, (2007).; and

WHEREAS, the Shelby County Board of Commissioners and the Memphis City Council feel it is necessary to address the concentration of these entities within the Shelby County and the City of Memphis and assist some of the most distressed sections of the City and County; and

WHEREAS, the existing Memphis and Shelby County Zoning Ordinance, does not specifically address payday, or title loan establishments; and

WHEREAS, it is deemed appropriate and in the best interest of the citizens to amend the Memphis and Shelby County Zoning Ordinance to include definitions, use categories, permitted location, and separation requirements for payday and title loan establishments; and

WHEREAS, these amendments were on the October 9, 2008 agenda of the Memphis and Shelby County Land Use Control Board for its consideration in accordance with the Joint Memphis and Shelby County Zoning Ordinance - Regulations section 6 and were unanimously recommended for approval by the Land Use Control Board.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners and the Memphis City Council that the Joint Memphis and Shelby County Zoning Ordinance - Regulations be amended as follows:

SECTION 1. That Section 2, Interpretations and Definitions, of the Joint Ordinance and Resolution set out in the caption hereof and the same is hereby amended by adding the following definitions:

FINANCIAL SERVICES: Any building, room, space or portion thereof where an establishment provides a variety of financial services, including generally, banks, credit unions, and mortgage companies. Financial services do not include title loan and payday loan establishments.

PAYDAY LOAN ESTABLISHMENT: Any building, room, space or portion thereof where a person, company, or other legal entity makes or facilitates a deferred presentment service, such that the person, company or legal entity provides currency or a payment instrument in exchange for a person's check or agreement to provide access to a drawer's account in a financial institution and agrees to hold that person's check for a period of time prior to presentment, deposit, or redemption or facilitates this process. Payday loan establishments include persons or businesses licensed under Title 45, Chapter 17, of the Tennessee Code Annotated.

TITILE LOAN ESTABLISHMENT: Any building, room, space or portion thereof where a person, company, or other legal entity engaged in the business of making loans in exchange for possession of the certificate of title to property or a security interest in titled property. Title loan establishments include persons or businesses licensed under Title 45, Chapter 15, of the Tennessee Code Annotated.

SECTION 2. That Appendix A, Zoning, Chart 1. Uses Permitted in Zoning Districts is hereby amended by adding the uses depicted in Attachment A.

SECTION 3. That Appendix A, Zoning, Chart 1 is hereby amended by adding Footnote 24 to read as follows:

Use Standards for Payday Loan and Title Loan Establishments

The governing bodies find that payday loan, or title loan, establishment have a deleterious effect on both the commercial and residential properties surrounding them, resulting in blight and the downgrading of property values, and contribute to depressed economic conditions in the community. The following standards shall apply to all payday lenders and title loan establishments.

1. It shall be a violation of this development code for a person, corporation, or other legal entity to operate or cause to be operated any payday loan, or title loan, establishment within one thousand (1,000) feet of:

   a. A duly organized and recognized place of worship;

   b. A public or private elementary or secondary school;

   c. A public or private day care facility or kindergarten;

   d. A public or private park;

   e. A boundary of a residential or landmark district; or

   f. Any other payday loan, or title loan, establishment.

2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premise where the payday loan, or title loan establishment is located, to the nearest property line of the premises of a place of worship, public or private elementary or secondary school, public or private day care facility or kindergarten, public or private park, any other payday loan, or title loan establishment, or to the nearest boundary of a residential district or local historic district.

SECTION 4. In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City of Memphis or Shelby County, Tennessee, the most restrictive shall in all cases apply.

SECTION 5. That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 6. Be it further resolved and ordained, that the Joint Ordinance take effect from and after the date it shall have been enacted according to due process of law, and thereafter shall be treated as in full force and effect in the jurisdiction subject to the above mentioned Ordinance by virtue of the concurring and separate passage thereof by the Council of the City of Memphis and by the Shelby County Board of Commissioners.

_____
DEIDRE MALONE., Chairman

Date:_____

_____
A C WHARTON, JR., County Mayor

Date:_____

ATTEST:

_____

ADOPTED:

1st Reading _____/_____/_____

2nd Reading _____/_____/_____

3rd Reading _____/_____/_____

Attachment A

Uses Permitted

	O-G	C-L	C-H	I-L	IH
Payday Loan Establishment	S	X	X	X	X
Title Loan Establishment	S	X	X	X	X

X = Use permitted by right;
S = Use requiring leglislative plan review and approval subject to the issuance of a special use permit in accordance with the provisions of sections 8 and 9 of this article;

LAND USE CONTROL BOARD RECOMMENDATION

CASE #: ZTA 08-001 CC

At its regular meeting October 9, 2008, the Memphis and Shelby County Land Use Control Board held a public hearing on the following proposed zoning text amendment:

APPLICANT: Memphis and Shelby County Office of Planning and Development

SPONSOR: Councilman Bill Morrison and Commissioner Mike Carpenter

PROPOSED ZONING TEXT AMENDMENT:

Amend Appendix A, Zoning, Section 2 to add new definitions for financial Services, check cashing, title loan and pay day lender.

Amend Chart 1 by adding new use categories and use standards for check cashing, pay day loan and title loan establishments.

Thomas Pacello, Assistant City Attorney presented the text amendment to the Land Use Control Board.

The following spoke in opposition to the application:

Jim Acklin spoke in opposition to the text amendment. He questioned whether they were actually concentrated in their locations. He pointed out that the list of pay day loan establishments which were the sites of crime did not illustrate a concentration of crime in any location and wondered how they compared with other types of businesses in the same locations. He said the businesses are located where they are because that is where the citizens have a need for their service.

The following spoke in support of the application:

Councilman Jim Strickland spoke in favor of the text amendment. He said that they were in fact concentrated in particular neighborhoods, many times in the same strip commercial center. He referred to the article "The High Costs of Payday Lending" attached to the staff report regarding lending practices that are detrimental to social and economic stability of neighborhoods where these businesses are concentrated.

They Land Use Control Board voted unanimously to approve the proposed zoning text amendment.