SHELBY COUNTY BOARD OF COMMISSIONERS
AGENDA ROUTE SHEET

Referred to Commission Committee _____

For Commission Action on _____

DESCRIPTION OF ITEM: A Joint Ordinance by the Council of the City of Memphis and the Shelby County Board Of Commissioners amending the Zoning Code Of Memphis And Shelby County, 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, so as to make certain changes as hereinafter set out and establish an effective date therefore. Sponsored by Commissioner Mike Ritz

CHECK ALL THAT APPLY BELOW:

___X___ 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: Office of Planning and Development

APPROVAL:

	(Print your name & phone #.)	(Initials)	(Date)
Dept. Head:			
Elected Official:			
Division Director:	Richard S. Copeland, 576-7196		4/28/09
CIP – A&F Director:			
Finance Dept.	F. Grace Hutchinson		4/28/2009
County Attorney:	J. Carter S. Gray, Tele. 379-4252	JCG by RBR w/ permission	4/27/09.
CAO/Mayor:	Mike Swift for Jim Huntzicker	MAS	4/29/09

SUMMARY SHEET

I. Description of Item

This item will replace the current chapter in the zoning ordinance regulating signs in Memphis and Shelby County. It also modifies that chapter of the zoning ordinance that addresses nonconforming uses and structure as to the provisions dealing with signs. This amendment was necessary due to the changing nature of signs (i.e. Digital and video signs and billboards) and to concerns that parts of the existing ordinance were unconstitutional as it related to the use of signs as free speech.

II. Source and Amount of Funding

Not Applicable

III. Contract Items

Not Applicable

IV. Additional Information Relevant to Approval of this Item

I. Description of Item

There are numerous technical changes, but the following should be noted:

1. A new category of signs is being created known as changeable copy signs. These include such signs as digital signs, tri-vision signs and reader board. The ability of these signs, if uncontrolled, to distract drivers and create additional visual clutter for the community is the basis for this desire to regulation their location, size and manner of use.
2. Language that gave certain signs special treatment, such as real estate signs, has been eliminated. Signs are now regulated by their size, location and number and not their content. The sole exception to this is the distinction made between commercial and non-commercial speech and the difference between on-site and off-site signs
3. The nonconforming sign provisions related to off-premise signs have been duplicated in that section of the sign code to make it easier for those in the business to see all the requirements that are applicable to these signs.

ITEM # _____ PREPARED BY: Mary Baker

APPROVED BY: Carter Gray
County Attorney

JOINT ORDINANCE NO._____

A JOINT ORDINANCE BY THE COUNCIL OF THE CITY OF MEMPHIS AND THE SHELBY COUNTY BOARD OF COMMISSIONERS AMENDING THE ZONING CODE OF MEMPHIS AND SHELBY COUNTY, 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, SO AS TO MAKE CERTAIN CHANGES AS HEREINAFTER SET OUT AND ESTABLISH AN EFFECTIVE DATE THEREFORE. SPONSORED BY COMMISSIONER MIKE RITZ

WHEREAS, the Board of Commissioners of Shelby County, Tennessee, and the City Council of the City of Memphis have previously adopted a joint zoning ordinance which includes provisions on the construction and permitting of all types of signs as well as standards for addressing nonconforming signs and billboards; and

WHEREAS, it has been necessary from time to time to make amendments to this ordinance to address changing technology and to assure that the provisions of the joint zoning ordinance take these changes into consideration to continue to provided the desired goals and expected results of the ordinance by improving public safety and the overall community's aesthetics by the requirements of the ordinance; and

WHEREAS, the legislative bodies have determined that the current ordinance does not take into adequate consideration the changing technology used for signs including but not limited to digital and video technology; and

WHEREAS, amendments to the Ordinance were deemed prudent to assure the continued constitutionality of this part of the Joint Zoning Ordinance.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE AND THE CITY COUNCIL OF THE CITY OF MEMPHIS:

Section 1. That the Joint Zoning Code of Memphis and Shelby County is hereby amended as shown in Exhibit A, attached hereto and incorporated herein by reference, and the same is adopted into the Memphis and Shelby County Zoning Ordinance as indicated.

Section 2. BE IT FURTHER ORDAINED, that this Joint Ordinance shall take effect on passage by the City Council of Memphis and the Shelby County Board of Commissioners as required by due process of law.

Section 3. **BE IT FURTHER ORDAINED**, that should any part of this amendment to the ordinance or code, or the final code version section as amended by these provisions, be found to be unconstitutional or unenforceable by a court of competent jurisdiction that such a determination will have no effect on the other portions of the adopted Code and the amendments thereto.

_____
Chairman of County Commission

_____
A C Wharton, Jr., County Mayor

Date_____

ATTEST

_____

Clerk of County Commission

First Reading: _____

Second Reading: _____

Third Reading: _____

Table of Contents

Chapter 29 SIGNS....1
Sec. I. Purpose and Scope....1
Sec. II. Applicability....2
Sec. III. Registration, Permits and Decals Required....5
Sec. IV. Prohibited Signs....6
Sec. V. Definitions....7
Sec. VI. Classification of Signs....13
Sec. VII. General Standards....14
Sec. VIII. Regulations Applicable to Permanent Signs....20
Sec. IX. Standards Applicable to Permanent Off-premises Signs....28
Sec. X. Temporary Sign Regulations....33
Sec. XI. Noncommercial Messages Always Permitted....36
Sec. XII. Violations....36
Sec. XIII. Enforcement and Penalties....37
Sec. XIV. Severability....37

Chapter 30 Nonconformities
Sec. V. Nonconforming signs....43
Sec. VI. Exception for repairs pursuant to public order....46

Chapter 29 SIGNS

Sec. I. Purpose and Scope.

These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts. More specifically, it is the purpose of this chapter to:

A. Implement the plans and planning policies of the City of Memphis and Shelby County, together with any subsequent adopted amendments;

B. Provide liberally for the free expression of ideas through signs in residential and other areas;

C. Encourage the effective use of signs as a means of communication and to facilitate way-finding in Memphis and Shelby County;

D. Balance the desire and need of individuals to express their creativity in signs with the desire to maintain a pleasing visual environment for residents and the many visitors who come to the area each year;

E. Protect and enhance the value of properties and to have signage appropriate to the planned character and development of each area in the City of Memphis and Shelby County;

F. Allow larger signs in specified commercial and industrial areas along Interstate highways with their higher traffic speeds, than along city streets, where traffic speeds are lower and there is less need for size to ensure legibility to passersby;

G. Balance the need for information for motorists and pedestrians with the need for traffic safety by limiting signs or characteristics of signs that may be particularly distracting to drivers;

H. Provide clear and objective sign standards;

I. Provide a clear and efficient review procedure for sign applications; and

J. Enable fair and consistent enforcement of the regulations set forth in this Chapter.

Sec. II. Applicability.

A. Generally

This chapter shall apply to all signs erected, placed, painted, installed or otherwise made visible on private or public property in the City of Memphis or Shelby County, except as otherwise provided herein.

B. Exemptions

The following signs or sign elements are exempt from the provisions of this chapter but are subject to any other applicable laws and regulations:

1. Any sign installed in a building or enclosed space and not visible or legible from the public right-of-way or from private or public property other than the property on which it is located;

2. Any sign which is not visible from a public right of way, public property or private property other than the zoning lot on which the sign is located, provided however should a change in local condition cause the sign to become visible form any of the above listed locations, the existing sign would be required to obtain a permit and comply with all existing sign ordinance elements and requirements at that time as if it were a new sign.

3. Any sign with a sign with less than four square feet in sign area and less than four feet in height (if freestanding), that is not separately lighted and that is not legible from the public right-of-way or from private or public property other than the property on which it is located; and

4. Signs located in the central business improvement district shall be subject only to the provisions of Chapter 12-36 of the City of Memphis Code.

C. Signs Subject to Other Standards

Signs listed in this section shall be exempt from the permit requirements of this Ordinance; but, shall, to the maximum extent allowed by law, be subject to the other standards of this ordinance. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this ordinance or otherwise deviate from the standards set forth in this ordinance to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this ordinance. This sub-section shall apply to the following types of signs:

1. Signs conforming to the *Manual of Uniform Traffic Control Devices* and bearing no commercial message;
2. Signs bearing no commercial message and installed by employees or officials of the City of Memphis and Shelby County, a state or federal agency in the course of their governmental duties (Also see Section VII. M. on Wayfinding signs);

3. Signs required by a state or federal statute;

4. Signs required by an order of a court of competent jurisdiction;

5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the public utility and the use; and
6. Signs installed by a transit company with a franchise or other right to operate in the City of Memphis and/or Shelby County, where such signs are installed along its routes and relate to schedules or other information about the transit route.

D. Signs Allowed Without a Permit

The following signs or sign-like devices are allowed in all zoning districts without a sign permit and are not to be included in determination of the allowable numbers, type and area of a sign that requires a sign permit. If a sign otherwise falling under this section is electrified, it will require an electrical permit. Signs subject to this Section shall conform to the requirements specified:

1. Address Numbers. Signs used for the purpose of identifying the address of any building shall not be counted toward allowed sign area;

2. Detached signs not larger than six square feet in area and not taller than four feet in height, measured from the ground and containing no commercial message (e.g., "Enter" or "Exit" signs);

3. Detached signs smaller than seven square feet, otherwise allowed in residential zoning districts;

4. Wall signs containing no commercial message and not larger than four square feet in area;

5. Holiday Decorations. Temporary holiday decorations used to celebrate a single holiday or season, provided that no such decoration shall contain a commercial message of any type.

6. Memorial Signs. Signs or tablets, names of buildings and date of erection, when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material, provided that no such sign shall exceed six square feet in area nor shall any such sign be separately illuminated.

7. Gravestones. Gravestones, not containing a commercial message, when erected in a lawful cemetery or graveyard.

8. Certain Flags. Flags not containing a commercial message. Such flags must be flown in a manner that meets U.S. Code 36 U.S.C. 173 -178 . Failure to display flags in this manner will be a violation of this Chapter. The height of flag poles permitted by this provision shall be governed by the maximum height of signs permitted in the zoning district. No more than four (4) flags shall be flown at any one time on one zoning lot.

9. Window graphics, provided not more than 25% of each window is covered by signs and is attached to the inside of the window. A lighted window sign is subject to requirements of the electrical code.

Exceptions:
a. In the Central Business Improvement District, window graphics shall be subject to the provisions of Chapters 12-32 and 12-36 of the City of Memphis Code.

b. On windows of vacant commercial space, 100% of the window may be covered by a screen or other sign or covering on the inside of the window. Any commercial message on this covering may only contain images or logos identifying the owner or leasor of the building or space provided these commercial messages on such coverings may not cover more 15% of the area of the screen or covering.

E. Other Actions Allowed without a Permit

The following signs and actions related to signs shall be exempt from the permit requirements of this Ordinance but shall be subject to all other standards of this Ordinance.

1. Changing of the advertising copy or message on an existing painted or printed sign, marquee, changeable copy sign or a similar compliant sign, whether electrical, illuminated, electronic message center or non-illuminated painted message, provided that the copy on an electronic message board shall not change more frequently than allowed under Section VII.E.2.;

2. Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes.

3. Installation of permanent signs smaller than six square feet where such signs are permitted by this ordinance, contain no commercial message and involve no electrical installation.

4. Installation of temporary signs not larger than 32 square feet, where such signs are permitted by this ordinance and conform with this ordinance in all respects.

F. Product Displays, and Sales Devices, Menu Boards Allowed Without a Permit

1. Nothing in this Chapter shall prohibit or limit the outdoor display of products where allowed under the zoning ordinance, although a particular product may be a thing which would be prohibited by this ordinance if used as a sign and although one or more such products may have on them permanent labels that might otherwise fall under this ordinance.

This ordinance shall, however, apply to any sign, banner, pennant, or other attention-attracting device affixed to a product displayed outdoors.

2. Signs on gasoline pumps, vending machines and other machines and devices used for the sale or dispensing of products shall be allowed if they do not flash and if they are either not legible from any public right-of-way, public property or private property other than the zone lot on which the sign is located; or they consist entirely of letters that are less than four inches in height; all other signs on vending machines, gas pumps and similar devices shall be considered "signs" and shall be subject to all of the regulations of this ordinance. No sign permit shall be required for such devices or signs affixed to such devices and conforming with this paragraph.

3. In districts where drive-through and drive-up facilities are allowed, menu boards or other instructional or informational devices related to the drive-through or drive-up facilities shall be allowed, provided that such device is less than 25 square feet in size, and that the only word(s) on such device that are legible from any location other than the zone lot on which it is located shall include no commercial message but shall simply identify the device as a "menu," "directory," "instructions," "information" or something similar. If such a menu board or other device is larger than four square feet and does include a commercial message legible from any location other than the zone lot on which it is located or if it is electrified, it shall require a sign permit.

4. In districts where athletic fields are allowed as a principal or accessory use, a scoreboard located inside such athletic field.

Sec. III Registration, Permits And Decals Required.

A. Registration of Signs.

Except for signs listed in Section II. B., C., and D, and other actions listed in Section II.E., any sign existing prior to the effective date of this title shall be registered with the building official within one hundred twenty (120) days of the effective date, or within 30 days of receipt of notice of failure to register a particular sign from the building official. However, all illuminated signs and all portable signs shall be registered. Any applicant for a permit must provide all information that the building official may reasonably require in order to determine whether the sign is illegal, nonconforming or conforming. The building official shall provide the owner of the sign with a written determination of whether the sign is illegal, nonconforming or conforming within five business days after receipt of a complete registration form.

The building official shall maintain the original or a copy of every registration form filed for every sign existing prior to the effective date of this title and all documents accompanying the registration form in his or her office and make the registration forms and all the documents available for public inspection during regular business hours.

The building official also shall maintain a log of all registered signs that includes at least the following information: the name, address and telephone number of the owner of the sign; the street address of the property where the sign is located; whether the sign is illegal, nonconforming or conforming; and the date of the last inspection of the sign. The building official shall make the log available for public inspection during regular business hours.

B. Permits Required.

Except for the signs listed in Section II. B., C., and D., and other actions listed in Section II. E., no sign shall be constructed, erected, relocated, expanded or altered unless the owner thereof obtains a sign permit from the building official. Because the use of technologies such as tri-vision, changeable copy and automatic changeable copy increases the potential for distracting drivers and increases the visual intrusion of a sign on the streetscape, converting a sign to a different technology, such as tri-vision or changeable copy technology shall require a permit to provide for administrative review of the conformance of the proposed modifications with this Chapter. All illuminated signs shall require an electrical permit even if no other permit is required. The applicant for a sign permit shall provide the building official with such information as the building official requires to determine that the proposed sign conforms with this Chapter and with applicable building and electrical codes.

The building official shall not be required to issue a sign permit unless such sign complies with the provisions of this chapter, and all other applicable ordinances and regulations of the city or county.

C. Decals Required.

1. A numbered identification decal shall be issued at the time of final inspection of a sign installation. The decal shall be displayed on the sign to which it has been assigned.

2. Within 30 days of the effective date of this ordinance, the building official shall issue identification decals to owners of all currently registered permanent off premise and on premise signs greater than 50 square feet with instructions explaining where to place these decals.

3. An off-premise sign shall require two decals. The decal on the board shall include the name of the current owner. The decal on the pole shall be at eye level and shall include the meter box address of the sign.

4. When the building official determines that a numbered identification decal has not been posted on a sign, the building official shall notify the owner of the sign in writing by certified mail that unless the numbered identification decal is posted on the sign within sixty (60) days after the date such notice is mailed, the sign shall be considered illegal and the building official shall initiate the necessary proceedings to secure removal of the sign.

Sec. IV. Prohibited Signs

The following signs are prohibited in all districts:

1. Signs on bus benches;

2. Portable signs in the AG, R-E, R-S, R-D, R-TH, R-M, O and FW districts;