

Item _____

Moved by: _____

Prepared by: Craig E. Willis

Seconded by: _____

Reviewed by: Carter S. Gray

JOINT ORDINANCE NO. _____

A JOINT ORDINANCE BY THE BOARD OF COUNTY COMMISISONERS OF SHELBY COUNTY, TENNESSEE AND THE CITY COUNCIL OF THE CITY OF MEMPHIS REQUIRING INDEPENDENT RESIDENTIAL LIVING FACILITIES TO PROVIDE LIFE SAFETY EQUIPMENT IN ALL BUILDINGS. SPONSORED BY COMMISSIONER VAN TURNER AND COMMISSIONER EDDIE JONES.

WHEREAS, There are a number of facilities housing elderly residents, known as Independent Residential Living Facilities, in Shelby County; and

WHEREAS, Independent Residential Living Facilities may house anywhere from five (5) residents to more than two hundred (200) residents; and

WHEREAS, Most of the individuals living in these facilities are over the age of seventy-five (75), and many are disabled or handicapped in some way; and

WHEREAS, There is no state law or county ordinance which specifically governs the operation of these Independent Residential Living Facilities. Unlike "Assisted Living Facilities," Independent Residential Living Facilities are not comprehensively regulated; nor are Independent Residential Living Facilities required to have backup power generators; and

WHEREAS, These facilities are usually managed by a third-party management

company, and often owned by an out of state entity; and

WHEREAS, Because Independent Residential Living Facilities provide food service for their elderly and disabled residents, the cost of living in these facilities is generally high, often exceeding One Thousand Dollars (\$1,000.00) monthly; and

WHEREAS, Despite the high cost to reside in an Independent Residential Living Facility, in the event of a power failure, with no requirement by law to have backup power generators, residents in these facilities often find dark, unlit hallways in their buildings, and may be stranded for many hours in their apartments which may be so dark that they are unable to safely find their way to the bathroom, and with no power, residents may find that the main phone system in their building does not work, forcing residents to rely on cell phones, which eventually will stop working because of weak batteries during extensive periods without power; and

WHEREAS, Notwithstanding that Independent Residential Living Facilities are supposed to provide food service for their elderly and disabled residents three times daily, when there is a power failure for an extended period, food may be served to residents which is not hot, that is supposed to be hot; food and drinks may be served that are supposed to be kept cold, which has not been kept cold; and food may be stored at temperatures which are not safe since there is no refrigeration; and

WHEREAS, During periods of power failure at Independent Residential Living

Facilities, emergency exit doors to the facility may be propped open for air circulation, which may render residents living in these facilities unsafe and vulnerable to theft and possibly violent criminal activity; and

WHEREAS, This Commission recognizes that the Memphis and Shelby County Uniform Development Code establishes land use requirements for similar facilities identified in that Code as “Independent Living Facilities”, but the definition of that land use classification differs from the definition of Independent Residential Living Facilities in this Ordinance by having a lower age limit for application of its provisions and in other ways and the Commission believes the requirements in this ordinance are more appropriate for the group of facilities identified herein; and

WHEREAS, This Commission deems it appropriate that this body enact measures to safeguard the health, safety and welfare of elderly and disabled individuals residing in this County living in Independent Residential Living Facilities by requiring that these buildings be connected to a generator system to ensure continued power and telephonic communication services when the normal power source is not available.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS FOR SHELBY COUNTY, That all facilities which house more than five (5) residents over the age of sixty-two (62) years or which house more than five

(5) residents who are disabled or which house more than five (5) residents who are either over the age of sixty-two (62) years or disabled (“Independent Residential Living Facilities”), are hereby required, within 180 days of the effective date of this ordinance, to install and maintain fire alarms in all parts of the facility and emergency backup generators capable of providing sufficient power for heating, air-conditioning and lighting for all common areas of the facility, including, but not limited to, kitchen and dining areas, corridors and hallways leading to entry ways and all exits. The main communication system, whether telephone or internet, shall also be connected to a generator system to ensure continued use when the normal power source is not available.

BE IT FURTHER ORDAINED, That reports of violations of this ordinance shall be made to the Office of Construction Code Enforcement, which shall complete an investigation of said complaint within five (5) business days of receiving the complaint. The owners and/or management companies of any Independent Residential Living Facility found to be in violation of this ordinance shall first be given a written warning with notice that corrections must be made within thirty (30) days of receiving the warning. If such facility is found not to have made the corrections as directed by the Code Official, within the time period allowed, the facility shall pay a fine of up to \$50.00 on the first violation; and a fine up to

\$50.00 for the second violation, and up to \$50.00 for the third and each subsequent violation which occurs within a two (2) year period of the initial violation of this ordinance. The Environmental Court (General Sessions, Division XIV), in determining the amount of the penalties to be assessed, may consider such factors as the willfulness of the violation; the repetitiveness of the violations; and magnitude of the risk of harm caused by the violation.

BE IT FURTHER ORDAINED, That each violation of this ordinance shall constitute a separate and distinct violation and shall be subject to a separate penalty.

BE IT FURTHER ORDAINED, That appeals of the notice of the Code Official involving violations of the provisions of this ordinance may be made to the Environmental Court.

BE IT FURTHER ORDAINED, That all fines collected for violations of this ordinance shall be collected by the general sessions court and paid into a special fund and distributed by the Trustee to the jurisdiction (i.e. the City of Memphis or County of Shelby) wherein the facility is found to be in violation of this ordinance is located.

BE IT FURTHER ORDAINED, That this Joint Ordinance shall become effective in the City of Memphis and unincorporated areas of Shelby County by virtue of the concurring and separate passage thereof by the Council of the City of Memphis and the

Board of Commissioners of Shelby County, as of the latter date of passage and adoption, and in accordance with the Shelby County Charter, Article II, § 2.06(C).

Mark H. Luttrell, Jr.
Shelby County Mayor

Date: _____

ATTEST:

Clerk of County Commission

First Reading: _____

Second Reading: _____

Adopted:
Third Reading: _____