

**STAFF REPORT**

**Agenda Item: 19**

**CASE NUMBER:** ZTA 12-001                      **L.U.C.B. MEETING:** February 9, 2012  
**APPLICANT:**                      **Memphis and Shelby County Office of Planning and Development**  
**REPRESENTATIVE:**              **Josh Whitehead, Esq., AICP, Planning Director**  
**REQUEST:**                      **Adopt amendment to the  
Memphis and Shelby County Unified Development Code**

***Executive Summary:***

1. The Memphis and Shelby County Unified Development Code (the “UDC”) was approved by the Shelby County Board of Commissioners on August 9, 2010, and by the Memphis City Council on August 10, 2010. The UDC serves as the Zoning Code and the Subdivision Regulations for all properties within the City of Memphis and the unincorporated areas of Shelby County.
2. During their approved in 2010, the legislative bodies instructed the Office of Planning and Development (OPD) to return in about a year with modifications to the UDC based on its enforcement of the document during its first year. This application represents OPD’s response to that request.
3. The proposed amendment to the UDC contains several hundred individual modifications. Many of these are relatively minor and have been classified as “housekeeping” in this staff report.
4. This staff report is organized to serve as an accompaniment to the UDC as modified, which is found online at <http://www.shelbycountyttn.gov/Blog.aspx?IID=12> (or go to Shelby County’s homepage and click on the RSS feed icon). Added language in that document is indicated with **yellow highlights**; deleted language is indicated with ~~yellow highlights~~. An exception to this standard is found in Article 8, where the superfluous language of the Frontage Overlays has been omitted.

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:**

***Approval***

1. **Throughout – Term, Grammar and Spelling Revisions – Housekeeping**

The term “and / or” has been replaced with either “and” or “or” as appropriate. Minor grammatical, spelling, and punctuation corrections have also been made. Where specific entities were improperly named corrections have been made, for example in Paragraph 2.6.4D(2)(b) “Tennessee Department of Health and Environment” has been corrected to “Tennessee Department of Environment and Conservation”. Where a code section is referenced elsewhere in the code these references have been adjusted as necessary to accommodate the addition of other sections. “Use and Occupancy permit” has been replaced with “Certificate of Occupancy.” “County Commission” has been replaced with either “Shelby County Board of Commissioners” or “County Board of Commissioners.” Also, the term “Center City Commission” should be changed to the “Downtown Memphis Commission,” which is the new name of that organization. References to Memphis City Ordinance Numbers have been replaced with the appropriate codified sections of the Memphis Code. Finally, the term “connector” is being changed to “collector” since it is the term of art used by most traffic professionals, Engineering, but most especially, the LRTP which is referenced in the UDC.

2. **Throughout – Pagination – Housekeeping**

The numbering of the pages has been reformatted to proceed continuously throughout the document instead of reinitiating the count at the beginning of each article. The date, which was formerly included at the bottom of the footnote has also been excluded and can be found now on the first page exclusively.

3. **1.7A (old numbering) – Housekeeping**

This section is being deleted, as it is repetitive of the language provided in the new 1.7A below.

4. **1.7A – Housekeeping**

Add “ordinances” to list that includes other “rules, regulations, agreements, etc.”

5. **1.7C & D – Conflicting Provisions – Housekeeping**

This subsection states that no portion of the UDC interferes with or supersedes any regulations or guidelines under Chapter 11 of the Memphis and Shelby County Building Codes. The clause “referencing the 2002 North Carolina Accessibility Code with the 2004 Amendments or other applicable Americans with Disabilities Act Accessibility Guidelines” has been removed. This clause is superfluous and potentially confusing to the reader. In addition, a new Sub-Section **1.7D** has been added that clarifies which section of the UDC governs if there are conflicts between the general standards of the UDC with Articles 7 (special purpose districts) and 8 (overlay districts).

6. **1.9 – Plans To Be Considered – Housekeeping**

Any other plans approved by the Memphis City Council and the Shelby County Board of Commissioners” has been added at the end of the list as a catch-all to accommodate plans that may be adopted in the future, as well as the Winchester Park plan.

7. **1.13.3A(5) – Conflicts between PD’s and UDC – Housekeeping**

Reword this section; it is supposed to address situations in which the UDC prevails on issues on which approved Commercial Plans (CP’s) and Planned Developments (PD’s) are silent. The proposal will delete paragraph (5) and add this language to the end of (1).

8. **1.13.3A(6) (new para) – Precursors to CPs and PDs – Housekeeping**  
This section states that previously approved Planned Developments remain in force and effect. The proposed new language would add the precursors to Planned Developments: Apartment Shop Plans, Shopping Center Plans (SC-1) & Wholesale Distribution Plans (ML) and Community Unit Plans (CUP).
9. **1.13.4 and 2.1 – Cleanup to zoning districts – Housekeeping**  
This table shows the new zoning districts as established under the provisions of the UDC. The table has been updated to include the recently adopted Midtown District Overlay. Also, clarification has been added that indicates that the special purpose districts are actually made up of several individual zoning districts. Finally, the Neighborhood Conservation Overlay (-NC) is proposed to be deleted, so it is being removed from these tables.
10. **2.2.2.C – Cleanup to single-family description – Housekeeping**  
This section outlines the general provisions for the residential zoning districts. This proposal would replace the wording “single-family detached houses” in the first sentence with “one single-family detached principal dwelling unit per lot.”
11. **2.3.7 and 2.3.8 – Special purpose and overlay districts – Housekeeping**  
Addition of a section to delineate the individual zoning districts that comprise the Special Purpose Districts, and whose inclusion should therefore construed by the use of “special purpose district” or any phraseology of similar intent. Section 2.3.8 states the phrase “overlay districts” or similar phraseology is construed to include all of the overlay districts as listed. Midtown District Overlay has been added to the lists of Overlay Districts, as has a reference to any future overlay districts that may be established.
12. **2.4.5 – Parcels in two zoning districts – Housekeeping**  
This Section 2.4.5 has been added to clarify that where a portion of a parcel falls within one zoning district and another portion of the same parcel is within a different zoning district, the portions are subject to the regulations of their respective zones. This new section also authorizes the Board of Adjustment to adjust a zoning district boundary by not more than 25 feet if the lot was under single ownership at the time of the adoption of the UDC. This language was in the was in the prior ordinance but inadvertently omitted from the UDC.
13. **2.5 – Updates top the Use Table**  
This chapter illustrates in table format which uses are permitted in which zoning districts. Uses are indicated as either: Not Permitted (no box), Permitted (a solid box), Permitted by Special Use Approval (a hollow box), or Permitted by Special Use Approval – Significant Neighborhood Structure (a “plus” sign). Special Use Approval is subject to Chapter 9.6. Special Use Approval - Significant Neighborhood Structure is also subject to Chapter 9.6 with additional provisions designed to protect non-residential structures that are important to the historical, architectural, cultural or civic character of a neighborhood. The prevailing theme of the amendments listed below is to square the UDC Use Table with the Use Table found in the old Zoning Code. This will avoid creating numerous nonconforming uses throughout the City of Memphis and Shelby County by changing the regulations on these structures midstream.

Updates to section 2.5.2, Use Table, include the following (the uses listed in the Use Table are underlined in this staff report for ease of navigation):

- Permit conventional single-family housing by right in the same zoning districts as the other single-family types. But disallowing conventional single-family housing in RU-4 district (which was permitted under the old Zoning Code), the UDC has inadvertently created many nonconforming structures that predated January 1, 2011.
- Group assisted living facilities and independent living facilities with the list of nursing homes and convalescent homes.
- Add a new term "all other city-or county-owned facilities" under the "community services" category. This will fill in a gap in this chart that did not encompass maintenance buildings and other municipal buildings, which may be located in the residential zoning districts with a Special Use Permit.
- Permitting seminaries, colleges and trade schools in all zoning districts as was the case with the old Zoning Code. Public and private K-12 schools may only be permitted in the industrial zoning districts by issuance of a Special Use Permit.
- Create a new use, dormitories not affiliated with colleges and universities and permit by Special Use Permit in all zoning districts. Dormitories affiliated with colleges and universities are permitted as accessory structures in the higher zoning classifications (commercial and industrial).
- Create a new use of off-site parking for houses of worship. This will permit parking lots that are not contiguous to lots on which houses of worship are cited to apply for a Special Use Permit.
- The EMP and IH industrial districts are added as acceptable zoning districts for social service institutions, which require the issuance of a Special Use Permit.
- Two new uses are proposed to be added to the "Utilities" section of the Use Table: wind farms and solar farms. Solar farms are permitted by right in the CA (agricultural) and industrial zoning districts and by in Special Use Permit in all other zoning districts. Wind farms are only permitted in the agricultural and industrial zoning districts.
- Funeral homes are added as distinct uses in the Use Table and they are permitted in the commercial and industrial zoning districts (and by Special Use Permit in the lowest commercial district, the CMU-1 district). This will square with the old Zoning Code.
- Permit beds and breakfast in many of the residential zoning districts, but only by issuance of a Special Use Permit as a Significant Neighborhood Structure. For example, the adaptive reuse of the Roulac Mansion on McLemore is a good example of a bed and breakfast in a residential zoning district. Also, all beds and breakfast should be issued only by Special Use Permit to be in line with other hotels.
- Hotels and motels should be permitted by Special Use Permit in the industrial zoning districts; this was the case in the old Zoning Code.
- Section 4.10.8A(1) permits off-premise advertising in the CBD district outside of the CBID, so a footnote is provided in the use table should to reflect that Paragraph.
- (**Housekeeping**) Permit animal shelters in the WD and IH districts; this squares the use table with Sub-Section 2.6.3H.
- (**Housekeeping**) Add a new retail use for hair, nail and tanning salons and permit these uses in the IH industrial district. This is in line with the old Zoning Code and decreases the possibility

of creating nonconformities.

- The old Zoning Code permitted tattoo parlors as general retail establishments. The line item would delete tattoo parlors as their own uses so they would be permitted where general retail is permitted.
- A new retail use is proposed for commercial electric vehicle charge stations, which are grouped with gas stations. Both of these uses to be permitted in the IH industrial district; for gas stations, this squares with the old Zoning Code.
- **(Housekeeping)** Delete one of the cleaning establishment use classifications for simplicity. This comports with the former Use Chart of the old Zoning Code and ZTA 89-001CC, which permitted cleaning establishments in all of the zoning districts that allowed pickup stations.
- Farmers markets are proposed to be permitted in the multifamily (residential urban) zoning districts by issuance of a Special Use Permit. This allows farmers markets to be permitted in each of the zoning districts as are gas stations. Also, provide a reference to the use standard section for farmers markets, Sub-Section 2.6.3Q, in far right column.
- The allowance to request a pawnshop in a residential zoning district by issuance of a Significant Neighborhood Structure is proposed to be removed. Also, a reference to the Use Standards established for payday loan establishments is added to the far right column, as this was requested by City Council on June 21, 2011.
- **(Housekeeping)** Add flea markets to “Retail Sales, Outdoor,” which is a use only permitted by Special Use Permit in the commercial and industrial zoning districts.
- A new type of retail use, tractor-trailers (fueling of), is proposed to be added to the Use Table. This is prevent fueling and sales of tractor-trailers to be permitted where gas stations and other automobile sales are located.
- **(Housekeeping)** The terms “Warehouse” and “Self-service” were removed from the mini-storage and indoor multi-story storage section. The term “warehouse” associated with self-storage caused confusion with industrial-scale warehousing operations. Also, “mini-storage” should be permitted by right in the CMU-3 zoning district.
- **(Housekeeping)** The vehicle sales, service and repair category is proposed to be amended to match the permitted uses in the old Zoning Code.
- Along with the new category for fueling of tractor-trailers, a new category is added for the sales of tractor trailers which would limit their sales (as with their fueling) to the industrial districts.
- A new use, microbreweries and microdistilleries, is added to the use table and permitted in the standard retail zoning districts (industrial, commercial and office by right and residential only by issuance of a Special Use Permit – Significant Neighborhood Structure. In addition, a new Use Standard is referenced in the far right column.
- **(Housekeeping)** The old zoning code permitted metal manufacturing (such as a steel mill) as a use by right in the Heavy Industrial district. The UDC requires an SUP; this has been removed to return metal manufacturing as a use by right in the IH district.
- **(Housekeeping)** Permit recycling centers and landfills in EMP by SUP; this was the case in the old Zoning Code. Also, permit construction debris landfills by right in the EMP (old Light Industrial) and Heavy Industrial zoning districts, which was also the case in the old Zoning Code. Also, all waste related services that require an SUP were to adhere to 2.6.4C, but this was not clear in the Use Table. The citation to 2.6.4C for “all waste-related services, except as listed below” has been removed and replaced for those items that require an SUP, which means

that some uses such as sanitary landfills and scrap metal processors, have duplexed use standards. Construction debris landfills will meet the use standards of Paragraph 2.6.4D(2).

- The sale, rent, and repair of tractors and related agricultural machinery is proposed to be permitted by special use approval in CA and by right in EMP, WD, and IH.
- (*Housekeeping*) Since new use standards have been provided for apiaries (beekeeping), these are added as into the Agriculture section of the Use Table.

14. **2.6 (new intro statement) – Distance requirements for use standards – Housekeeping**

This new introductory statement at the beginning of the Chapter of the UDC that discusses the use standards states that all distances included in this Chapter shall be made from property line to property line. For instance, payday loan establishments must be 1320 feet from residential districts as measured from the property line of a payday loan establishment to the property line of a residential parcel and adult businesses must be 1500 feet from residential districts as measured from the property line of an adult business to the property line of a residential parcel.

15. **2.6.1A(1) – Update to side yard house graphic – Housekeeping**

This graphic has been updated to indicate that the fourth house from the left is not permitted; also, the word “Development” has been added to the bottom of the graphic under each housing type.

16. **2.6.1A(4) – Hens – Housekeeping**

This section has been moved to a new Section 2.7.11 since it deals with an accessory use and not with a principal use.

17. **2.6.1B – Updates for live/work units – Housekeeping**

First, the opening paragraph to this Sub-Section is amended to explicitly stipulate that only those uses permitted by 2.5 are permitted in a live/work unit. Live/work units should not be a method of varying from the use table. The term “advertising” is not used in the Sign Code (Chapter 4.10 of the UDC); instead, the term “commercial” used. This amendment proposes changing the phrase “advertising signs” in Paragraph **2.6.1B(7)** to “commercial signs.” Also, Item **2.6.1B(8)(b)** is being amended to allow first-floor kitchens and bathrooms in live/work units. The intent of this allowance is to promote live/work units by reducing excessive costs associated with the installation of duplicate plumbing facilities. Finally, Item **2.6.1B(8)(c)** is amended to remove the requirement to place live/work units within 200 feet of an intersection for the downtown and center city areas within the Parkways (the reference is given to the map . There is no rational basis for locating these uses in close proximity of intersections regardless of the class of roadway on which the live/work unit is located.

18. **2.6.2B(1)(b) – Landscaping for daycares**

This amendment changes the required landscaping buffer between day cares and abutting single-family residential uses from a Class III buffer to a Class II. Many of these day cares operate in single-family houses, so a Class II buffer is sufficient.

19. **2.6.2B(1)(d) – Loading for daycares – Housekeeping**

The second section of this sentence cross-references Section 4.5.6 for stacking requirements for day cares; since Section 4.5.6 permits the City or County Engineer to waive these requirements, a note is added to this Item.

20. 2.6.2C – Updated use standards for schools

This amendment involves several modifications to the use standards established for public and private schools and seminaries. The first of these involve an amendment to the introduction to the section on schools that will square this section with the proposed changes in the Use Table in Chapter 2.5. The proposal would allow schools in all of the zoning districts that were listed in the old Zoning Code; this eliminates the possibility of creating nonconforming structures and uses that would be prohibited from expanding. In addition, the following changes are also proposed for Sub-Section 2.6.2C:

- (*Housekeeping*) Paragraph 2.6.2C(1) is amended to permit off-site school recreational fields; for example, the ballfields for Grace-St. Luke's School is located off-site from the main school campus.
- Paragraph 2.6.2C(3) is proposed to be changed to remove the requirement that the entrance to an elementary school be along the primary street. If a school is located at the corner of an arterial and a collector, for instance, it would be more pedestrian friendly to locate the main entrance on the less traffic intensive of the two roads, the collector. This language is replaced with a requirement that the vehicular access to a school site must be from the primary street.
- Paragraph 2.6.2C(4), a new paragraph, is proposed that will require any use of any parcel that is part of a residential subdivision plat and not accessible from a collector or arterial to be processed through the Special Use Permit process before it is used for a school. This will prevent the expansion of schools into residential subdivisions without a public hearing.
- Paragraph 2.6.2C(5) is amended so no more than 20% of the parking for a school is located in the front yard, as opposed to 5%.
- (*Housekeeping*) Paragraph 2.6.2C(6) is proposed to be amended that will allow the school districts to determine the proper placement of bicycle parking on their sites, as is current practice.
- (*Housekeeping*) Paragraph 2.6.2C(8) is amended to remove places of worship and libraries from this list, as this Sub-Section (2.6.2C) only applies to schools; this entire section is repeated in 3.10.3A(3)
- Paragraph 2.6.2C(11), a new paragraph, requires a Class I buffer along property lines that abut single-family residential. This will provide landscaping screening along school property lines that abut single-family residential lots.
- (*Housekeeping*) A new Paragraph 2.6.2C(12) is added to exempt existing school buildings that were in place on August 1, 2011 from Paragraphs 5, 9 and 10. This will allow for the expansion and modification of school buildings that may be located on streets that do not conform with the requirements of the UDC. For example, many existing high schools, such as Carver (on Pennsylvania St), are now legal, non-conforming structures and uses since they are not on a collector or arterial.

21. 2.6.2E – Required screening of lighted recreation fields – Housekeeping

This proposal would require that recreational fields should be buffered from single-family residential zoning districts and uses.

22. 2.6.2G – Updated use standards for houses of worship

A new line is added at the end of Paragraph 2.6.2G(1) which exempts all places of worship constructed prior to the adoption of the UDC from the requirement to be on lots of at least 20,000 square feet. This will allow general expansion and reconstruction of small churches on small sites

throughout the city without the need to obtain variances from the Board of Adjustment. Paragraph **2.6.2G(3)**, is amended to permit off-site parking for houses of worship on sites that are not contiguous to the parcel on which the house of worship is located through the Special Use Permit process. Also, prohibit front-yard parking, which is a provision that applies to all non-residential uses in residential zoning districts through the new Paragraph **2.6.2G(4)**. Paragraph **(5)** mirrors the buffer requirement for places of worship that abut single-family residential lots. Finally Paragraph **(6)** exempts existing places of worship as of January 1, 2011 (the date on which the UDC became effective), from the requirements to be located in close proximity to streets that are on designated frontages and to contain a certain percentage of their lots (building frontage, per Sub-Section 3.10.2B).

**23. 2.6.2H(10) – Amateur radio operator towers – Housekeeping**

This section is being deleted since its intent is essentially addressed in Sub-Section 2.6.2H(6); the requirement that would involve an adjacent property owner's acquiescence to the construction of an amateur radio operating tower is a civil matter between the two owners and not a zoning matter.

**24. 2.6.2I – Communications towers – Housekeeping**

This subsection was previously worded in a fashion that only addressed CMCS (cell) towers and did not address radio or television or other communications towers that were over 65 feet in height. Except for where particular sub-paragraphs address regulations unique to a particular type of tower the term "CMCS tower" has been changed to "tower" so that all tower types over 65 feet are addressed. Throughout this section "cannot" has been changed to "shall not" where appropriate for enforcement purposes. In addition, the following changes are proposed to individual sections:

- Paragraph **2.6.2I(1)** has been added. This section uniquely addresses radio and television and other communications other than CMCS towers. This section is taken verbatim from the existing Memphis Code of Ordinances §16-36-4(B)(10).
- Sub-Item **2.6.2I(2)(a)(3)** has been amended to remove "overhead electric lines" and replaced with "transmission lines. MLGW does not want to review all cell towers within close proximity of OHE lines; just transmission lines.
- Sub-Item **2.6.2I(2)(c)(9)** is amended to make it clear that, if a communications tower causes interference with Police, Fire, or other Governmental communication signal, then it is the owner of the tower that is financially responsible for correcting the interference.
- Item **2.6.2I(2)(e)** is amended to make it clear that a cell tower must be as far from a single-family residential parcel with a single-family dwelling within a single-family zoning district as it is in height. Otherwise, it will require a Special Use Permit. Tower height shall not be part of the calculations for height for the purpose of this section, pursuant to existing 2.6.2I(1)(a)(6).
- A new Sub-Item **2.6.2I(3)(b)(4)** is added that will let the reader know if a tower does not meet the distance requirements of Item 2.6.2I(3)(b), the tower will be processed as a special use permit.
- Sub-Item **2.6.2I(3)(e)(1)** is amended so the total number of antennae that may be co-located on a single tower is clear.
- Sub-Items **2.6.2I(3)(i)(2) and (3)** amended to change the "Design Review *Commission*" of the "Center City Commission" to the "Design Review *Board*" of the "Downtown Memphis Commission."



25. **2.6.2J (new section) – Renewable Energy Systems**

This section is new and includes standards for both solar and wind energy systems. Both types of renewable energy are distinguished into three sub-types based upon scale – large (or farm) utility scale, small (freestanding) scale, and building mounted.

26. **2.6.3A(3) Adult businesses – Housekeeping**

A new provision is added that prohibits adult-oriented establishments on any site with a designated frontage.

27. **2.6.3B(1)&(2) – Bars vs. restaurants – Housekeeping**

The term “restaurant with sale of alcoholic beverages or brew pub” is being changed to “bar, tavern, cocktail lounge, nightclub” since the former is covered in Sub-Section 2.6.3G.

28. **2.6.3B(3) – Bars in unincorporated Shelby County – Housekeeping**

This paragraph should be reorganized as a sub-category under Paragraph (2) above since it only applies to bars in unincorporated county; bars within the City fall under the City of Memphis’ Alcohol Ordinance.

29. **2.6.3B(4) & G(5) – Special Use Permits for bars**

New ownership for bars and restaurants that serve alcohol should not require a Special Use Permit. This process is onerous, but more importantly, unnecessary and duplicative since new owners must obtain new permits from the state and/or the Memphis or Shelby County Alcohol Commissions.

30. **2.6.3D(1) – Hotel/Motel Waiver – Housekeeping**

The term “change in business ownership” is being changed to “change in the controlling interest of a business” for when a hotel will require a new Special Use Permit. A “change in business ownership” could include minority shareholder changes in a corporation.

31. **2.6.3F(4) & (5) – Restaurants in the OG district – Housekeeping**

This amendment to the section of the use standards for restaurants in the OG district, which is purely wordsmithing, proposes adding a “with” in Paragraph (4) and removing redundant “as measured,” insert “with”, “the” in Paragraph (5).

32. **2.6.3G(4) – Restaurants that sell alcohol**

This section applies to restaurants that serve alcohol. Requiring a Special Use Permit for restaurants in close proximity to residential areas is too restrictive and is counter to the mission of creating walkable communities where retail and residential establishments may be in close proximity. The Alcohol Ordinance for the City of Memphis provides for distance requirements for bars (establishments with sales for on-premise consumption where food represents less than 40% of total sales) and convenience stores (establishments with sales for off-premise consumption), but not for restaurants that sell alcohol (establishments with sales for on-premise consumption where food represents more than 40% of total sales). This proposed amendment would defer to the Alcohol Ordinance.

33. **2.6.3H(1) – Animal Shelter, Kennel, etc. – Housekeeping**

This section has been updated to show that outdoor runs are allowed in EMP districts as shown on the Use Table in Chapter 2.5, as well as the old Zoning Code.

34. **2.6.3J(3)(f) – Gas Station Use Standards – Housekeeping**

“Adjacent” is not defined here for the distance between automatic car washes and residential districts with regard to operating hours. Replace “adjacent” with “300 feet.”

35. **2.6.3N – Outdoor retail sales – Housekeeping**

A clarification is made that this subsection does not apply to mobile food trucks. The requirement that the vendor attend the vending facility at all times has been removed due to concerns over facilities such as large ice-vending machines and similar facilities which do not require the actual presence of a person for their operation.

36. **2.6.3O – Self-storage facilities – Housekeeping**

The headings to Sub-Section to **2.6.3O(2) and (3)** is proposed to change the headings to “mini-storage” and “indoor multi-storage;” these are the same changes being proposed for Chapter 2.5, the Use Table. Also, a similar change is proposed to alter “warehouse” to “self-service.” The term “warehouse” is being removed from these subsections to avoid potential confusion with how the term is utilized elsewhere in the code. This section addresses smaller storage facilities and does not apply to large-scale storage facilities that would be inappropriate for temporary use by the general public. Similarly, the term “self-service” has been removed to avoid redundancy.

37. **2.6.3P – Vehicle sales, service and repair**

The title to this Sub-Section has been renamed and expanded to also include repair establishments and uses, in addition to sales and services. Item 2.6.3P(1)(g) has been altered to read “Road testing of vehicles may be restricted to nonresidential areas” rather than “may be conditioned to a specific route.” The prohibition of open service doors and outdoor speakers found in Item **2.6.3P(1)(J)** has been altered so as to be applicable only in instances where vehicle sales and services occur within 300ft of a residential district. The requirements of Items **2.6.3P(1)(k) and (l)** requires signs and parking lot light poles be removed upon the closing of a dealership has been removed, as that would make adaptive reuse of the properties difficult. These changes reflect concerns over enforcement and the consideration that if the dealership has closed the former dealer will likely not have the funds to remove this infrastructure. The restrictive standards of Paragraph **2.6.3P(2)**, such as the requirement to conduct vehicle sales and service in a fully-enclosed building, should only apply to the CBD zoning district downtown and the designated frontages, so the CMU-1 district has been removed from these regulation . As an aside, the only vehicle sales and service that may be conducted by issuance of Special Use Permit, but a Special Use Permit may not vary these requirements.

38. **2.6.3Q –Farmers Markets**

In Paragraph **2.6.3Q(3)**, clarification is made regarding the hours of operations of farmers markets based upon which district they are located in and an allowance for extended hours of operation is allowed by special use approval. Specifically, where a farmers market is located in an RU- district within 100 feet of a residential single family use, those permitted hours of operation are 9 am to 6 pm. In all instances the permitted hours are 7 am to 8 pm. One hour set-up and dismantling buffers are allowed before and after the standard hours of operations and alternative hours of operations may be granted with a Special Use Permit. In addition, a new Paragraph **2.6.3Q(5)** has been added that clarifies that farmers markets are permitted in the required parking areas of other uses if a temporary permit has been issued.

39. **2.6.3R (new section) – Funeral establishments**

This section adds use standards for funeral establishments; with certain limitations provided in the CMU-1 zoning district, which is the lowest commercial zoning district.

40. **2.6.4C – Waste-related services. – Housekeeping**

The beginning phrase of this sub-section is rephrased to form a sentence.

41. **2.6.4F – Use standards for microbreweries and microdistilleries**

Distinction is made between microbreweries and microbreweries with tasting rooms, the latter being restricted similarly to bars due to its function as an establishment where the primary product for consumption is alcoholic beverages. Microbreweries with tasting rooms must satisfy a distance requirement of 500ft between it and any surrounding single family residence, churches, etc. Furthermore, the tasting room facility itself may not exceed 10% of the microbrewery's total footprint. All microbreweries must abide by Title 7 of the city's code of ordinances.

42. **2.6.5B (new section) – Sale, rent and repair of tractors, etc.**

These use standards have been inserted for clarification purposes. While similar to those standards established for the sale, rent, and repair of general consumer vehicles it is recognized that there are particularities unique to farming machinery that are more appropriately covered by such dealerships being addressed separately. These facilities are permitted by right in EMP, WD, and IH districts and by special use approval in CA. Tractors and related machinery must be parked on-site and cannot be placed in the right of way, nor may they be artificially elevated above the grade of the site. A class III buffer must be installed between the site and any adjacent residential use. The use of banners, flags, balloons, and similar advertising ploys are not permitted. In addition, outdoor lighting must be directed downward and away from residential property to the extent possible and may not exceed 60 foot-candles.

43. **2.6.5(E) – Neighborhood gardens – Housekeeping**

A number of clarifications have been added to this subsection including the allowance of accessory uses such as greenhouse and storage sheds, height restrictions of 25 feet on those accessory uses and a general exemption from the minimum lot size requirements for neighborhood gardens without any structures.

44. **2.6.5F (new section) – Apiaries (beekeepers)**

This new section adds use standards for the keeping of beehives as accessory structures in residential zoning districts.

45. **2.7.1 – Accessory uses and structures**

Sub-Section **B** is amended to explicitly permit accessory uses and structures on the same tract or lot, but across a zoning boundary, from its principal use, provided that principal use is permitted in the zoning district in which the accessory use is located. Also, Sub-Section **E** is deleted as 1) there is no mechanism by which to enforce the architectural nature of an accessory structure since Memphis and Shelby Co. have no Design Review Commission, and 2) it is overly broad. Many accessory structures associated with single-family uses, such as storage sheds, have no architectural relationship with their

principal structures. A new Sub-Section **J** is added that stipulates that semi-trailers, shipping containers and storage PODs are not permissible accessory structures, except in the industrial districts.

46. **2.7.2 – Accessory structures, generally**

This section deals with accessory structures. The following amendments are proposed to this section:

- Paragraph **2.7.2A(1)**: The erection of a breezeway-type construction is permitted between an accessory structure (e.g., a shed or detached carport) and the principle structure (usually a dwelling) as a shield from the elements, so long as it is clearly incidental to the principle and accessory structures. It is not permissible if an owner attempts to expand the principle structure by establishing solid, closed in walls connecting the principle and accessory structures. The scale, materials, and transparency may all be considered by the building official in determining compliance with this section. In addition, the ten-foot required separation between accessory and principal structures is being reduced to five feet.
- (*Housekeeping*) Paragraphs **2.7.2A(2) and (3)**: The proposal will divide this section into two, creating a new paragraph 3. The first will state that no accessory structure shall be located in the required front yard of any zoning district. The second will state that no accessory structure shall be located in front of the building line in a single-family or residential zoning district. This will prevent front yard accessory structures in front of homes, apartment buildings, as well as most places of worship since they, too, are in residential zoning districts. The restriction of accessory structures in the front yard will not apply to certain accessory “structure” such as flagpoles, birdbaths, etc.
- (*Housekeeping*) Paragraph **2.7.2A(4)** provides a reference to 3.2.9E, the general UDC section on encroachments. Also, an exception is provided that allows air conditioning units, pool equipment and similar mechanical equipment in the required side yards. On many lots, this is the only location to place such equipment.
- Paragraph **2.7.2A(5)**, a new paragraph allows garages to have a 0-foot setback from alleys. This avoids treating many garages along the City’s alleys from being considered nonconforming structures.
- (*Housekeeping*) Paragraph **2.7.2A(6)** is amended so it is clear it’s requirement that accessory structures be in certain proximity to alleys applies only to accessory *garages*.
- (*Housekeeping*) A new Paragraph **2.7.2A(7)** is added to cross-reference the context sensitive setback encroachment that is located in Paragraph 3.2.9E(13).
- (*Housekeeping*) Section **2.7.2B**: New references are provided to the amateur radio towers and cell tower sections of the UDC regarding heights of accessory structures.
- Section **2.7.2C**: This section was previously worded so as to limit the number of accessory structures to 1 on any lot smaller than 6000 sq. ft., and 2 on all others, except for in CA districts, where there was no limit. It has been re-worded to address the square footage of the accessory structure rather than the number – this more directly addresses concerns over pervious surfaces. It now states that in no instance shall the cumulative square footage of any accessory structures exceed 75% of the area of the principle structure on the same tract or lot, except for in CA districts, where no limit applies.

47. **2.7.3 – Accessory dwelling units – (*Housekeeping*)**

The following modifications are proposed to this section:

- Sub-Section **2.7.3A**: A single family detached dwelling will be permitted only a single accessory dwelling per lot, which will be subject to site plan review and the accessory dwelling unit standards.
- Sub-Section **2.7.3B(1)**: The CA (Conservation Agriculture) District has been added along with the R-E (Residential Estate) District as the sole districts in which an accessory dwelling unit is not limited to 700 sq. feet but rather 1000 sq. feet.
- Sub-Section **2.7.3B(2)**: The requirement that accessory structures share an electrical meter with the principal structure has been removed. According to MLGW, there are situations in which a second meter is ideal since the customer will not be able to feed an accessory dwelling unit from the primary structures meter due to electrical limitations on wire size, etc. For instance, if the accessory dwelling is far enough away from the primary structure, it could cause voltage drop problems if the service is run from the primary structure's meter. In cases like this, it would be necessary to install a second electric meter for the accessory dwelling unit.

48. **2.7.4 – Home occupations (home-based businesses)**

The following modifications are proposed to this section:

- (*Housekeeping*) Sub-Section **2.7.4(A)**: Several additional uses, such as real estate offices and beauty salons, have been added to the list of expressly forbidden home occupations. For instance, Section 1260-2-03(1) of the Tennessee Real Estate Commission's Rules of Conduct require signs to be displayed at a real estate firm's place of business, but home occupations are strictly forbidden from displaying signs. In addition, the prohibition against the sale of firearms has been deleted (Para. 12) since TCA 39-17-1314 preempts such a local ordinance.
- (*Housekeeping*) Sub-Section **2.7.4B**: The outdoor storage of materials, supplies, and equipment for home occupations is forbidden except in the case of certain landscaping materials. This exception is only permitted on lots of 4 or more acres and the materials must be appropriately screened. In addition it is more clearly indicated that only one customer is allowed at a residence at a time.
- Paragraph **2.7.4B(10)** is a new paragraph which stipulates hours of operation of home occupations.
- Paragraph **2.7.4B(12)** is a new paragraph which prohibits front yard parking in connection with home occupations.

49. **2.7.5E – Accessory uses for places of worship**

This sub-section previously limited child-care centers in places of worship to locations where the place of worship, including child care portion thereof, were a minimum of 2 acres in size. This 2 acre requirement has been removed and replaced with the 20,000 square foot minimum applicable to places of worship (see Paragraph 2.6.2G(1)) and child care services are now permitted so long as all other requirements of child care centers pursuant to Paragraph 2.6.2B(1) are met.

50. **2.7.10 – Boats, recreation vehicles**

- (*Housekeeping*) The title of this section has been revised to include all the components of both Sub-Sections A and B.
- Sub-Section **A**, based on the previous development code, extends the restrictions on camping trailers to utility, lawn service, and related trailers. These trailers shall be limited to one per single family lot, may not be stored in the front or side yards, nor used as supplementary dwelling facility.

- Sub-Section **B** clarifies the prohibition of “heavy equipment” in that it includes the weight limit enforced by the previous development code which stipulates that vehicles and equipment in excess of 8000lb. constitutes “heavy equipment” and is thus prohibited.

51. **2.7.11 – Hens – Housekeeping**

This new section takes existing language moved from 2.6.1A(4) since it deals with an accessory use. Also, a new phrase has been added to stipulate that this use shall be used as an accessory to a single-family residential use.

52. **2.7.12 – Apiaries – Housekeeping**

This paragraph has been moved from the Use Standards that deals with apiaries as a principal use.

53. **2.8.2F – Mobile food preparation vehicles – Housekeeping**

Mobile Food Preparation Vehicles have been exempted from the temporary use permit requirements so long as they adhere to the provisions of the new ordinance that regulates these types of uses, Memphis Code of Ordinances Section 16-261.

54. **2.8.3 – Special events – Housekeeping**

The Building Official is granted discretion in setting time limits for a special event permits on a case-by-case basis. For some uses, seven consecutive days every three months may be too intensive.

55. **2.8.3H(11) – Landscaping for temporary uses – Housekeeping**

As a requirement of the approval criteria to be granted a temporary use permit, uses with a duration of a year or longer must submit a landscaping plan in accordance with the Code.

56. **2.9 – Use Categories**

The section expounds on the use categories established in 2.5, the Use Table. In the opening portion of this section (Paragraph 2.9.1B(2)), clarification is made that accessory uses are permitted by right in conjunction with the indicated principle uses *unless expressly limited to special use permit elsewhere in the code*. The following amendments are proposed for 2.9:

- **(Housekeeping)** Add gardening as accessory use for many uses.
- **(Housekeeping)** Add electric vehicle charging unit as accessory use for many uses.
- **(Housekeeping)** Replace the term “wind turbines” as an accessory use with the term “building-mounted wind energy system.”
- **(Housekeeping) Sub-Section 2.9.2A:**
  - Add an asterisk by private community center to allow these in common areas of subdivisions; they are not accessory structures on the same lots as SF structures.
  - Add an asterisk that allows accessory dwelling units for single-family detached homes only; these are not appropriate in multi-family and single-family attached settings. Also, reference the new Sub-Section 2.7.3A.
  - Include “City- and County-owned facilities” with “Community Services” so they are permitted in all zoning districts.
- Sub-Section **2.9.3C:** Dormitories should only be permitted as a by-right accessory use to colleges, community colleges and universities; all others should require a Special Use Permit. This is in line with the changes made to 2.5, Use Table. This will not apply to any existing

dormitories. Also, nursery schools and preschools should be permitted as accessory uses to regular schools.

- Sub-Section **2.9.3E**:
  - Remove “community garden” as an allowable “park/open area” use; “neighborhood gardens” are listed as an “Agriculture” use.
  - Add recreational rentals as an accessory use in the Park and Open Areas; this would allow bike and canoe rentals in parks.
- (*Housekeeping*) Sub-Section **2.9.3G**: Off-site parking for places of worship should be considered a principal use; this squares with the addition to the Use Table in Chapter 2.5, which requires the issuance of a Special Use Permit for off-site parking for places of worship.
- Sub-Section **2.9.3H**: Two new uses, “private corrections institutions, jails and prison” and “work release center” as a social service institutions.
- Sub-Section **2.9.3I**: Include solar and wind farms as utilities to align with 2.5, Use Table
- Sub-Section **2.9.4A**: Add “banquet hall” to the list of “indoor entertainment activities;” these will be permitted in all of the districts in 2.5 under “except those listed below.”
- (*Housekeeping*) Sub-Section **2.9.4B**: Make “banks” more prominent on this table by placing it at the beginning of the list, since banks represent the bulk of financial institutions.
- (*Housekeeping*) Sub-Section **2.9.4H**:
  - Add “personal trainer, gym” after “dance, martial arts, music studio or classroom”.
  - Remove funeral services from this section since they will have their own new section (Sub-Section 2.9.4L).
  - Add firearm and ammunition sales to list of general retail sales.
  - Fueling of tractor-trailers, which is limited to the industrial zoning districts, is added.
  - Add wedding chapels to list of retail uses.
- Sub-Section **2.9.4J**: Under vehicle service, auto painting is added as an auto service. Under vehicle repair, state that the towing service allowed with this use shall not include an impound lot (as the Use Standards of 2.6.3P forbid it). Also, a new line in the accessory use category is provided that explicitly allow vehicle service as an accessory use to a vehicle repair principal use and both vehicle service and vehicle repair are accessory uses to vehicle sales. Also under 2.9.4J, a line is added for the sales and rental of tractor-trailers.
- Sub-Section **2.9.4L** (new section): This section is dedicated to funeral establishments.
- Sub-Section **2.9.5B**:
  - Add “microbreweries” and “microbreweries with tasting rooms” with the light industrial uses.
  - Add “manufacture of “Chemical, cosmetics, drug, soap, paints, fertilizers and abrasive products” to list of permitted light manufacturing uses. This was permitted under the old Zoning Code; by removing these uses in the new light industrial zoning district (the “EMP” district), hundreds of nonconformities have been created across the City and County.
  - Remove “crematorium, pet crematorium” from list of light industrial uses and permit in all the zoning districts funeral homes are permitted by adding to new list in 2.9.4L. Permitting crematoria in same zoning districts as funeral homes prevents a proliferation of nonconforming uses.
  - Add “offices, guardhouse, generating plants, pumphouses, and other accessory uses and buildings customary and incidental to light industrial uses” as accessory uses to light industrial uses. Also add this language to the IH district (Sub-Section 2.9.5D).

- Retail sales for Light Industrial uses should not be limited to “goods manufactured on site.” Also, permit on-site retail sales in the other industrial districts (WD and IL; Sub-Sections 2.9.5C and 2.9.5D). This will allow, for instance, the sale of kegs from a beer distributor that may not be brewing the beer on-site.
- Sub-Section **2.9.5D**:
  - Add “mulch making facility” to list of Heavy Industrial uses. This would group this use with sawmills and pulp mills.
  - Add “on-site day cares...” to the list of permitted accessory uses. This will be in line with the accessory uses permitted in EMP and WD.
- Sub-Section **2.9.6A**:
  - Stipulate that 2.6.5D lists permissible accessory structures
  - Add the sale, rent and repair of tractors and related agricultural machinery – to align with 2.5 (Use Table), new 2.6.5B (Use Standards).
  - On the accessory uses on the right hand side of this table, remove the phrase “non-commercial” where it appears. If a principal use is permitted as a commercial enterprise (grain silo, for instance), then clearly the accessory use will also be commercial.
  - Consistent with Chapter 2.5, the Use Table, a new line has been added that allows apiaries (beekeeping facilities) as principal uses.

**57. 3.1.1 – Applicability – Housekeeping**

- In Paragraph **3.1.1B(2)**, language has been deleted and a new cross reference has been provided so alterations to existing structures have regulations with consistent language.
- In Sub-Section **3.1.1C**, a clarification has been made that re-stripping an existing parking lot without expanding the actual surface of the parking lot does not trigger the code.
- A new Sub-Section **3.1.1E** is provided that stipulates that only minor and major utilities are subject to the provisions of Article 3. In other words, small infrastructure such as utility poles, fire hydrants, etc. are exempt from the setback requirements of the Code. See Sub-Section 2.9.3I for a list of minor and major utilities.

**58. 3.1.4 – Number of buildings on a lot – Housekeeping**

This section essentially stipulates that no more than one building is permitted on a lot, with a few exceptions. The following modifications are proposed to this section:

- Sub-Section **3.1.4A**: The first sentence of this Sub-Section is reworded for clarity.
- Paragraphs **3.1.4B(1) and (2)**: The words “civic and open” are added to this list of uses where it is permissible to construct multiple principal buildings on a lot. This will allow multiple municipal and agricultural buildings on a single lot.

**59. 3.2.4 – Clear sight triangle and 3.2.5 – Corner radii – Housekeeping**

“Clear sight triangle” should be moved to 4.5.7 so it is in the section concerning access management. A section titled “clear sight triangle” is already reserved as Section 4.5.7. “Corner radii” should be moved to 5.2.7 to it is in the section concerning street layout and design.

**60. 3.2.6A – Building height – Housekeeping**

This Sub-Section deals with the heights of buildings and how that measurement is determined.



- Paragraph **3.2.8A(1)** is amended by adding a sentence to clarify the manner in which a building is measured on a sloped site. On these sites, the height is measured by averaging the height along the front façade.
- Paragraph **3.2.8A(2)** is amended by adding mechanical appurtenances (such as those placed on the roof) as items exempt from the building height regulations.
- Paragraph **3.2.8A(3)** is amended by adding “MLGW buildings and infrastructure” to the list of items that may be 20 feet taller than the maximum permitted height in a particular zoning district.

**61. 3.2.9B – Required yards – Housekeeping**

The old Zoning Code stipulated that corner residential lots had two front yards and two side yards; the UDC says corner residential lots have one front yard, one front side street yard, a side yard and a rear yard. Therefore, the new rear yards on these corner lots have created a vast amount of non-conforming structures. A graphic is proposed to demonstrate the difference between corner lots and non-corner lots to show that corner lots have two side yards and no rear yard. Also, a differentiation has been made between residential lots and non-residential lots since non-residential lots to square w old Zoning Code.

**62. 3.2.9C – Building frontage and fuel canopies – Housekeeping**

Fueling Canopies and Breezeways are to be permitted in the calculation of the required building frontage for automobile-intensive use such as gas stations.

**63. 3.2.9D(4) – Determination of rear yard on irregular lots – Housekeeping**

Both a sentence and graphic has been added to this section to assist in the determination of the required rear yard for irregular lots.

**64. 3.2.9E – Encroachments – Housekeeping**

This section deals with permissible encroachments into a lot’s required front, rear and side yards. The following amendments are proposed to this section:

- Sub-Section **3.2.11E** is reworded so that underground structures are permitted to encroach into required yard setbacks.
- Item **3.2.11E(2)(h)** is a new paragraph allowing attached garages and carports to encroach up to 10 feet into the required rear yard, provided they are 5 feet from the rear property line. This language was lifted from the old Zoning Code. For fully enclosed garages, a zero-foot setback is permitted.
- Item **3.2.11E(2)(i)**: This is a new section allowing rear-facing garages to be encroach up to five feet into the required rear yard. For fully enclosed garages, a zero-foot setback is permitted.
- Paragraph **3.2.11E(4)**: This amendment removes the limitation on the encroachment an unenclosed deck may make into a required rear yard.
- Paragraph **3.2.11E(5)** is amended by allowing pool equipment to be on this list of items permitted to encroach into the rear and side setbacks, provided such equipment is screened from abutting streets.
- A new Paragraph **3.2.11E(13)** permits the Planning Director, through the administrative deviation process, to permit setback encroachments if the type of encroachment is found throughout a subject site’s neighborhood. A recent example was the subject of a variance

requested before the Board of Adjustment in 2011 for a setback along LaBelle Street where all of the homes along that road exhibited the same encroachment.

65. **3.3 – Blocks and Lots – Housekeeping**

This Chapter deals with both blocks and lots. Since blocks are more associated with street layout, the proposal is to change the title of this Chapter to “Lots” and move the “blocks” section to Chapter 5.2. In addition to this amendment, the following modifications are also proposed to this section:

- Sub-Section **3.3.1B**: The 16-foot minimum frontage requirement for flag lots that was in the old Subdivision Regulations should be returned to the Code.
- Subsection **3.3.1F** is a new paragraph concerning reverse frontage lots. Reverse frontage lots, or those lots that face away from major arterials and collectors, are generally prohibited except in situation where the pattern of developing such lots has been established either immediately across the street or on an abutting property. The rear of such lots should either be contained in a landscape easement or a common area maintained by a homeowners association. This area shall contain a Class III buffer.
- Sub-Section **3.3.1G** deals with flag (or panhandle) lots. While minimum frontage must be no less than 16 feet in width according to Sub-Section 3.3.1B, actual lot width is measured as the width of the lot at the building line, and the building line is determined by the required front yard setback as measured from the point where the lot is at its minimum lot width. An illustration has been added to provide visual clarity. Flag lots along designated streets or within the special purpose districts need not adhere to maximum setbacks.

66. **3.5.6 – List of overlay districts – Housekeeping**

The list of overlay districts should be deleted and replaced with a cross reference to Article 8, Overlay Districts. This will avoid the need to update this section if new overlay districts are added.

67. **3.6.1 – Single-family district building standards – Housekeeping**

This section is one of the most important in the Code; it stipulates the minimum lot and yard size for the residential zoning districts. Amendments include removing the “acre/sq. ft.” in the left hand column and insert “acres” and “sq ft” where appropriate in the other columns for clarity. Also, the heights of cottages should be changed from 25 feet to 30 feet to make this table for conventional subdivisions consistent with subsequent tables for open space and sustainable subdivisions. Also, the opening paragraph has been given a section letter, “**A**” since new sections “**B**” and “**C**” have been added after the tables. The new section “**B**” describes regulations for lots without public sewer or water. Unsewered lots, unless served by a private sewer system, are required to contain a minimum of two acres and a width of 150 feet. Lots where public water is not available are required to have both an individual septic system and well, a minimum of four acres as well as a min. width of 150 feet. The new section “**C**” stipulates that parcels owned by MLGW are excluded from the requirement to have water and sewer.

68. **3.6.2A – Regulations for non-residential uses in residential zoning districts**

This section deals with permitted non-residential uses in the residential zoning districts, such as places of worship. A new row is proposed in this section to this table for parking setbacks for non-residential uses in residential districts – align w respective front bldg setbacks

69. **3.7.2 – Multi-family district building standards**

This section is similar to the one described in 3.6.1, but rather than describing regulations for single-family zoning districts, this section focuses on the multi-family zoning districts. The following changes are proposed:

- **(Housekeeping)** Sub-Section **3.7.2A**: Buildings constructed prior to the adoption of the UDC should be exempt from the required building frontages, maximum front yards and required percentage of housing types that are included in this section. In addition, a reference is provided to new sections in the nonconformity section, the new Chapters 10.8 and 10.9.
- **(Housekeeping)** Sub-Section **3.7.2B** (new section): “Group Living” uses (ie, personal care home for the elderly w conventional and nursing homes w apts) that are included in the use chart in Chapter 2.5 and described in the definitions in Article 12 are *not* a type of bldg in of themselves; they are housed in one of the types listed.
- **(Housekeeping)** Throughout the **tables** in this section, changes have been made to the housing type requirements for the RU-3 zoning district to be in line with the less-intense RU-2 zoning district and the more intense RU-4 district. This will also put the RU-3 district in line with the old Zoning Code and eliminate the likelihood that the UDC creates nonconformities out of buildings that pre-existed its enactment.
- Also throughout the **tables** in this section, a note is provided that both the required building frontage (the regulation that stipulates that a building must occupy a certain minimum amount of its lot) and maximum setbacks for apartments and townhouses only apply to Zone I, per the map in Section 4.10.13, but not in Zones II and III. Zone I is the area inside the parkways, where this regulation creating a more urban aesthetic, would be more effective. This note will align with a new footnote created for the table in Sub-Section 3.7.3A. Also, the maximum setbacks and building frontages should be measured along not only the abutting public street, but also any internal private drive on which the buildings front. This would cover both apartment communities as well as conventional single-building apartment buildings.
- For those **tables** in this section that permit a rear yard of “5 or 20+” feet, a more definitive rear yard setback has been provided of 20 feet for townhouses; 15 for apartments. Rear-facing garages and alleys may be as close as five feet to the alley (per new Item 3.2.11E(2)(i), but not the principal structure.\*
- A new footnote has been provided to the **tables** permitting frontage walls to be calculated into the minimum required building frontage. This provision was approved by the Memphis City Council and Shelby County Board of Commissioners in October 2010 as part of the Midtown Overlay District regulations.\*
- **(Housekeeping)** Conventional, detached single-family homes have been added as a permitted use in the **RU-4 district table**, as it was permitted under RU-4’s predecessor zoning district (R-MH). This will eliminate the creation of nonconforming structures in these districts.
- **(Housekeeping)** A new footnote has been added to all **tables** that allows the maximum setback to be determined by averaging the setback along the front façade. This will avoid variance requests, such as the building immediately to the east of Sun Studios, for sections of the building that are behind the required maximum setback (the building next to Sun Studios was notched back to provide a viewshed to the iconic painted Sun Studio logo on the eastern façade of that building).\*
- **(Housekeeping)** Under the required yard description in these **tables**, the term “front (without alley access)” has been replaced with “front (with street access)” since the former phrase has caused unnecessary confusion of the determination between front and side street yards.\*

*\*These changes were also made to the similar tables in Sub-Section 3.8.5B.*

**70. 3.7.3A – Regulations for non-residential uses in multi-family residential zoning districts**

This section is dedicated to permitted non-residential uses in the multi-family districts, similar to Section 3.6.2 and single-family districts. The following changes made to the tables in Section 3.7.2 (the general guidelines for multi-family districts) are proposed in this table:

- The required building frontage and maximum setbacks should be limited to the area within the parkways (Zone I, per Map in 4.10.13O), and not the more suburban areas of the city (Zones II and III).
- *(Housekeeping)* A new row has been added to this table for parking setbacks; the minimum parking setback should align with the front building setbacks of the district. This will prevent parking in these residential areas to be in closer proximity to the street than the surrounding buildings.
- *(Housekeeping)* The minimum setback is changed from zero feet to two feet to align with other minimum setbacks provisions in the Code.
- *(Housekeeping)* An exemption is created from the required building frontages and maximum front yards for structures that preexisted the Code; also, a citation to the new Chapter 10.8.

**71. 3.8 – Residential Subdivisions – Housekeeping**

The LUCB may grant relief to certain subdivision regulations through the Planned Development or Subdivision Review procedures. In addition, Sub-Section **3.8.2A** is amended to reflect a 0.6% formal space requirement to be consistent with Sub-Sections 4.10.4A and 6.2.1B.

**72. 3.8.3 – Single-Family District Standards – Housekeeping**

Subdivision plats are required to include a notation stating which housing types are approved within that particular subdivision.

**73. 3.8.5 – Open Space Subdivisions and 3.8.6 – Sustainable Subdivisions**

*(Housekeeping)* A new sentence is added at the end of Sub-Sections 3.8.5B and 3.8.6C that explains that “group living” uses (ie, personal care home for the elderly and nursing homes) are *not* a type of building in of themselves; these uses are housed in one of the types listed. This change mirrors the same in Section 3.7.2, conventional subdivisions.

*\*For 3.8.5 (but not 3.8.6), see the descriptions provided above with asterisks for Section 3.7.2, which explain the proposed changes made to the tables in this section.*

**74. 3.9.2 – Infill Standards– Housekeeping**

Two amendments are being considered for this section that deals with infill residential development. These are located in Paragraph **3.9.2B(1)** and Sub-Section **3.9.2J**. A clarification is made regarding the conditions that trigger contextual infill development standards, these standards are triggered when a lot is abutted on two or more sides, not when entirely surrounded. When measuring foundation height the “top of grade” is more clearly defined as “top of grade (as measured from three feet from the foundation in the front yard, as averaged across the building line).”

**75. 3.10.2B – Mixed Use Standards – (Housekeeping)**

This section deals with the non-residential zoning districts in the same manner as the previous section dealt with residential districts in that it concerns the permitted building setbacks, heights, lot size, etc.

for commercial, office, mixed use and industrial zoning districts. The following amendments are proposed to this section:

- **(table)** The minimum lot width in the CMU-3 district has been reduced from 100' to 50' so as to not created nonconforming uses through the city, especially on busier roads.
- **(table)** On the table in this section, the maximum building floor area has been deleted so as to avoid the creation of thousands of nonconforming buildings throughout the city, particularly in shopping centers
- **(table)** The zero-foot parking setback for parallel parking should state that *on*-site parking could be part of the roadway but immediately adjacent to the right-of-way. The current language that states that parking be located zero feet "from street" could be interpreted as allowing parking directly behind the sidewalk. This amendment changes "from street" to "on street."
- **(table)** A footnote has been provided at the bottom of this table to explain the "0 or 10" side yard setback. Also, a graphic on this concept has been added to Paragraph 3.10.2B(2).
- In Sub-Item **3.10.2B(1)(b)(5)**, the requirement to view inside a window by eight feet is reduced to four feet to allow the utilization of shadowboxes. This aligns with amendments proposed to the graphics in Section 3.10.3
- In Sub-Item **3.10.2B(1)(b)(6)**, the 60% ground floor transparency requirement has been reduced to 50% to match the approved language of the Midtown Overlay and the other overlay districts as proposed with this zoning text amendment.
- A new Item **3.10.2B(1)(c)** is added that will permit the Planning Director to grant an administrative deviation from the requirements found in Paragraph 3.10.2B(1), which deal with design features required for all buildings that are closer than 20 feet to the street. This will enable expansions of existing buildings, such as the addition for restrooms at the old Two-Way Inn, which heretofore would require a variance from the Board of Adjustment.

76. **3.10.2E – Central Business District Standards**

This section covers the building setbacks, etc., for the Central Business District zoning district. The changes proposed for this section include:

- Variances from these sections dealing with building placement and elements may be processed as special exceptions by the Land Use Control Board and not the Board of Adjustment since the latter is an appropriate substitute for a Design Review Commission under Tennessee Code Annotated 6-54-133. The building placement and elements provisions of this section are really design-related and should not require the showing of a hardship by the property owner/applicant. However, a Design Review Commission does not exist in the City of Memphis or unincorporated Shelby County, which is why a substitute organization is needed.
- The requirement to construct buildings above the sidewalk level has been removed as commercial activity is best served at the same level as the sidewalk.
- The parking setback of 30 feet along the primary street and 10 feet along the side street has been reduced to 8 feet in both instances to align with the designates frontages of 3.10.3. The 30- and 10-foot setbacks are impractical.
- **(Housekeeping)** The requirement that buildings must be less than 75 feet in width in order to be closer to the right-of-way (typically, the back of sidewalk) is being removed since it should apply to all buildings. This will avoid creating nonconformities out of all of the buildings downtown that are directly abutting the back of sidewalk but are less than 75 feet in width.

77. **3.10.3 – Frontage Standards**

This section of the Code contains the regulations for those streets designated with certain frontages. Currently, frontage standards only those streets designated in the Overlay Districts (see Article 8). While Article 8 presently contains individual frontage standards for each overlay district that are similar but not congruent, this zoning text amendment proposes that the table in this section contain all frontage standards to provide uniformity throughout the city and unincorporated county. In the future, frontage standards may be designated through the comprehensive rezoning process rather than the creation of a new overlay district. The following changes are proposed for this section of the Code:

- In Paragraph **3.10.3A(2)**, new applicability language is added to stipulate when the regulations of this section are triggered. This language is currently found in the applicability section of the Overlay Districts.
- A new Paragraph **3.10.3A(3)** is added to link to the existing Chapter 3.11, which explains how the regulations of the Code apply to additions to existing buildings on designated frontages. Also, a new Paragraph **3.10.3A(4)** is added to cross-reference Article 9, Nonconformities, for existing buildings.
- A new Sub-Section **3.10.3E** is added for large format and liner buildings; this language and these graphics were part of many of the Overlay District regulations.
- A new Paragraph **3.10.3F(1)** is added to explain the process by which new streets are designated with frontage standards; this is performed through the rezoning process, as explained above.
- A new Paragraph **3.10.3F(2)** is added to explain the site plan review process. If an application meets all of the provisions of the Frontage Standard section, it is processed administratively through the administrative site plan review (ASPR) process. If it does not meet the provisions of this Section, it is processed through the Land Use Control Board with appeals to City Council and/or the County Board of Commissioners. This procedure was developed during the drafting of the Midtown Overlay, which substituted the Land Use Control Board as a Design Review Commission rather than the Board of Adjustment.
- A new Sub-Section **3.10.3G** has been added that provides additional use standards for sites that are designated. In summary, certain uses, such as adult establishments and payday loans are prohibited, as are metal buildings.
- The **table** in Section 3.10.3 has been given a Sub-Section designation: 3.10.3**H**.
- (**table**) The “General” frontage designation in the table is deleted, as its regulations make it essentially meaningless and unnecessary.
- (**table**) With the frontage tables deleted in the Overlay Districts (article 8), the building frontage for the Urban and Transitional frontages are edited to meet the regulations that were found in those tables. These changes are also proposed in the graphics following this table.
- (**table**) A new footnote “2” is added at the bottom of the table permitting frontage walls to be taken into consideration with the calculation of building frontage, or the percentage of a lot that must be occupied by a building.
- (**table**) The old footnote “2” is now footnote “3” and language is added that explains that the 0-foot setback is for attached buildings (which triggers certain Building Code requirements such as installation of a fire wall) and detached buildings. Also, “0 or 10” is replaced with “0 to 10,” as that is a more appropriate descriptor. Finally, a cross-reference to the new Paragraph

3.10.2B(2) is provided. This is the section where a graphic was included to explain building separation.

- **(table)** The old footnotes “3” and “4” are deleted. Forbidding parking on a lot in front of the building line is not practical in most situations; a universal parking setback of 8 feet is proposed along all designated streets, both primary and side street. The old footnote “4” refers to streetscapes that are proposed to be deleted.
- **(table)** Residential floor height along shopfront frontages is reduced to 11 feet to make it square with the both the other frontage standards of this table and the CBD table included in 3.10.3E.
- **(table)** The required ground floor transparency for residential uses along the shopfront designated streets is reduced to 30% as residential uses require additional wall space and privacy as compared to commercial uses. Also, this brings the shopfront designation more in line with the other designations, which is set at 20%.
- **(table)** The requirement to construct buildings 18 inches above the sidewalk level has been removed as commercial activity is best served at the same level as the sidewalk. This also unnecessary increases construction costs and places many buildings’ compliance with the Americans with Disabilities Act into question.
- **(graphics after the table)** The changes reflected in the table described above are also proposed for the graphics in this section that follow the table. One change not reflected in the table is the reduction of visibility into a window to 4 feet. This will permit shadowboxes rather than full-fledged windows.

78. **3.11 – Additions to buildings on sites with maximum setbacks**

This Chapter addresses all sites that preexist the requirements of the UDC, the Overlay Districts and the Special Purpose Districts to be located close to the street and the additions to those buildings. First, the section renamed so the reader knows it applies only to nonconforming structures on sites with maximum setbacks. The threshold for the applicability of this section should be 50%, which will allow minor alterations to preexisting buildings. Finally, a graphic is added that covers instances in which a side addition is made flush with the main façade.

79. **4.1 – Development standards – Housekeeping**

This chart is one of the most important in the entire Code; it indicates when and which provisions of the UDC take effect with certain improvements. Clarification is indicated on the chart that the phrase “Change in Use” means a change from one of the four categories on the chart, not a general change in use as defined elsewhere in the code. The four general categories on the chart are “Single family”, “Multi-family”, “Industrial”, “All Other.” However, the Planning Director shall be authorized to determine whether use standards found in 2.6 are required for some changes in use. Also, the threshold on the number of parking spaces added to a site that would trigger the Code has been increase from six new spaces to 20, the threshold for industrial building expansion should be 10,000 square feet and the threshold for expansion for other building expansion should be 5000 square feet. Also, outdoor lighting for single-family lots will not be governed by the UDC; this is reflected in the outdoor lighting provisions of Chapter 4.7. In addition, expansion of parking lot in the industrial districts will not, in of itself, trigger the UDC. Finally, the column heading “Sidewalk and Tree Repair” has been amended to read “Sidewalk and *Street* Tree Repair” since only those trees inside the right-of-way would be affected.



**80. 4.1.3 Curb, gutter, sidewalk on site plans – Housekeeping**

A note is added to this section that requires all site plans submitted in accordance with this Chapter to indicate the location of curbs, gutters and sidewalks on properties that abut the subject site. This will assist staff in determining the appropriate streetscape plate on the subject site.

**81. 4.2.1B – Sidewalk repair– Housekeeping**

The City and County Engineers have been included as parties which may enforce ordinance. This issue is also covered separately in the City and County Sidewalk Codes.

**82. 4.2.2 – Required street tree repair – Housekeeping**

This section is dedicated to the required trees along the street, as evidenced throughout the Streetscape Plats of Chapter 4.3. Subsections A and C are proposed to be deleted for purposes of clarification. The Building Official may require repair or replacement of any street trees that are not planted and in healthy condition prior to issuing a certificate of occupancy.

**83. 4.3 – Streetscape Standards**

This chapter concerns the required layout of curbs, gutters, sidewalks and street trees that are to be located along public streets on sites that are developed pursuant to this Code. The following modifications are proposed:

- (*Housekeeping*) A new sentence is provided at the end of Section **4.3.2** stating that all trees found in this Chapter are planted at 40 feet on-center.
- (*Housekeeping*) In Paragraph **4.3.1B(1)**, the phrase “that are not located on a street that has been identified...” with “or on a street that has been identified by MLGW for aboveground utilities...”
- (*Housekeeping*) MLGW requires 15 feet of separation between utility poles and trees. Therefore, a note at the end of Paragraph **4.3.1B(1)** is added to permit administrative deviations for streets that require aboveground utilities.
- (*Housekeeping*) A new Paragraph **4.3.1B(4)** is proposed that will explicitly allow aboveground utilities along streets with rural cross sections. Often, the low density of rural areas makes the placement of utilities underground financially impracticable.
- The **table** in Section **4.3.3** is revised to add a line requiring certain streetscape plates for parcels along arterial roadways. With the addition of this line, Sub-Section 4.3.5C, below, may be deleted. Also, sites along an arterial are required to have a 10-foot separation between the sidewalks and the street when street trees are required by the streetscape plate, unless waived by the Planning Director.
- At the bottom of the table in Section **4.3.3**, two notes are proposed that will read: 1) “In lieu of a ROW dedication to adhere to the following streetscape plates, a pedestrian/utility easement may be recorded that meets the dimensions of the ROW;” and 2) “Pursuant to Section 4.3.4, the Planning Director may permit alternative streetscape plates through the administrative deviation process.”
- (*Housekeeping*) The 4.5-foot grass strip and 5-foot sidewalk, which is the standard streetscape plate in about 90% of the City’s streets, is nowhere to be found in the UDC. Plates **S-10**, **S-11** and **S-14** (those that do not involve street trees) are revised to allow this standard strip.
- A new Sub-Section **4.3.4A** is added that permits the Planning Director to grant administrative deviations where the strict adherence to the streetscape plates is impractical.

- In Sub-Section **4.3.4B**, the authority to grant curb and gutter exemptions is changed from the Planning Director to the City or County Engineer. Also, for roads eligible for curbs and gutter waivers, add a provision whereby the City or County Engineer may waive the requirement to widen the road. In addition, provide a cross-reference to the new Sub-Section 5.2.16C, which permits the City or County Engineer to waive these requirements on sites that are not adjacent to improved roadways. Finally, the City or County Engineer may waive the requirement to install sidewalks under the same scenario on sites that are not expected to generate an inordinate amount of pedestrian activity.
- A new Paragraph **4.3.4C(2)** permits the Planning Director to allow for sidewalks to be rebuilt in a manner that is not portrayed in the streetscape plates if the site already has sidewalks that are no less than 50% in good repair.
- A new Sub-Section **4.3.4D** permits the Planning Director to grant administrative deviations for sites with less than a 4.5' grass strip, which is one of the options as outlined in the streetscape plates. Many sites, particularly in the older sections of the City, have sidewalks immediately adjacent to the curb. Forcing these sites to go to the Board of Adjustment or Land Use Control Board for a variance from the streetscape plates is onerous.
- A new Sub-Section **4.3.4E** permits the Planning Director to waive sidewalks on a site-by-site basis through the administrative deviation process, but requires the applicant to present an alternative pedestrian circulation system plan. If a request is made to exempt sidewalks throughout an entire subdivision, the Planning Director (through the minor subdivision process) and the Land Use Control Board (through the major subdivision process) may only grant an exemption to construct sidewalks if the streets proposed are rural.
- (*Housekeeping*) A sentence is added to the end of Sub-Section **4.3.4F** that stipulates that street trees planted in the right-of-way and on sites adjacent to aboveground utilities shall be of a species that will not interfere with the aboveground utilities.
- A new Sub-Section **4.3.4G** is added that will deal with existing sites where the existing buildings necessitate "continuous aprons," or driveway aprons that often run in excess of the standard length, sometimes along the entire site.
- A new Sub-Section **4.3.4H** is proposed that will explain that rural streets are, by their very nature, exempt from the streetscape plates of this chapter.
- (*Housekeeping*) Sub-Section **4.3.5B** is revised to reflect the elimination of many of the streetscape plates.
- A new Item **4.3.5B(1)(d)** is added that will require landscaping in close proximity to sidewalks not to project into sidewalks and be at least eight feet above the sidewalks.
- The requirement in Sub-Section **4.3.5C** that stipulates that grass lawn along arterials be wider than the graphics portrayed in this Chapter is deleted as it is now addressed in the table in Section 4.3.3C.
- (*Housekeeping*) In Sub-Section **4.3.5D**, define DBH as "Diameter at Breast Height." A definition of this acronym is also provided in Chapter 12.2, Abbreviations.
- (*Housekeeping*) Sub-Section **4.3.5D** is amended to require landscaping in the sight triangle to be no more than 24 inches rather than 30 inches to square w AASHTO (American Association of State Highway Transportation Officials) regulations.
- (*Housekeeping*) Sub-Section **4.3.5F** has been deleted since Section 4.3.4 will be the regulatory language for exemptions from the streetscape plates with the adoption of this zoning text amendment.

84. **4.4 – Street standards – Housekeeping**

This section is moved to and renumbered as Sub-Section 5.2.7 so that all subdivision-related items are grouped together in one section of the UDC.

85. **4.4 (formerly 4.5) – Access Management**

This Chapter deals with a site's access to public roadways. Since the old Chapter 4.4 has been moved to Sub-Section 5.2.7, this section has now become Chapter 4.4. The following changes are proposed to this chapter:

- ***(Housekeeping)*** Paragraph **4.4.3B(1)**, which limits the number of access points from a site to an arterial roadway has been rephrased from a negative statement to a positive one.
- ***(Housekeeping)*** Clarification is provided to Sub-Section **4.4.6C** that the table which describes the number of allowable driveways from an apartment complex or commercial, office or industrial uses applies only to arterials.
- ***(Housekeeping)*** The clear sight triangle section, which was formerly Section 3.2.4, has been moved to **4.4.7**. Previously, 4.4.7 simply provided a cross-reference to 3.2.4, so that language is being deleted. New language is also proposed to this opening paragraph that all sight distances shall adhere to AASHTO standards, not just those where approach speeds are more than 40 mph.
- ***(tables*** throughout this Chapter): The clear sight triangle tables have been revised to group those roads without posted speeds with those with a 30 mph speed limit (rather than with those with 20-25 mph speed limits).
- ***(Housekeeping)*** Section **4.4.8** is clarified to allow Engineering to require additional curb radii at intersections, depending on the presence of certain conditions such as truck traffic along the roadways in question.
- ***(Housekeeping)*** Paragraph **4.4.8B(4)** is amended to increase curb radii for major intersections and eliminate differentiation based on adjacent land uses since truck traffic, which requires additional curb radii, is more affected by the roadway and its intersecting roadways than it does with adjacent land uses.
- ***(Housekeeping)*** Paragraph **4.4.14C(7)** is amended to clarify that queuing is measured from back of sidewalk or 10 feet from face of curb if no sidewalk is present.
- ***(Housekeeping)*** A new Sub-Section **4.4.14** is proposed for the approval process for guardhouses and gates.

86. **4.5 (formerly 4.6) – Parking**

This section of the UDC deals with parking requirements for a variety of uses. The discussion below is organized by Sub-Sections of this chapter.

• **4.5.2C – General Provisions**

Two new sections (Items “**b**” and “**c**”) are added to Paragraph **4.5.2C(2)** that will prohibit parking spaces in the required front yards of multi-family and churches.

• **4.5.3B – Parking Ratios (table)**

This section deals with the actual parking ratios for each use, or the number of required parking spaces depending on the floor space dedicated to said use.

- **(Housekeeping)** The word “residential” is removed from the phrase “Multifamily in all other residential zoning districts” since apartments may be in non-residential (in the CMU by SUP) zoning districts
- Required parking for day cares has been lowered from the standard, retail-oriented 1/300 ratio. The new language mirrors Nashville’s parking ratio for day cares, which ties the parking closer to the number of children served: “1 space for each 5 individuals accommodated, up to 50 individuals; for more than 50 individuals accommodated, 10 spaces plus 1 space per 10 individuals”
- **(Housekeeping)** Utilities are listed in the parking table to stipulate that parking is not required.
- **(Housekeeping)** Required parking ratios have been removed for parks and recreational fields. It is difficult to tie a parking ratio to these uses based on size of facility or acreage of park; the old Zoning Code did not include required parking for these uses. For recreational fields with fixed seats, however, the parking spaces are fixed to the number of seats at the same ratio as churches. Also, cross-references are provided both to and from the Park/Open space category to the Indoor and Outdoor Recreation categories.
- **(Housekeeping)** Under the old Zoning Code, the required parking for places of worship was one space per ten seats, but was inadvertently changed to one space per five spaces, doubling the parking requirement for places of worship. This amendment returns the ratio of the old Code, since one of the principal goals of the UDC was to reduce required parking and the emphasis on auto usage. Concerns regarding place of worship church encroachment into residential areas is addressed by the new requirement that places of worship must be on lots of at least 20,000 sq feet.
- **(Housekeeping)** For bars, nightclubs, restaurants with entertainment, and all other indoor recreational uses that do not have fixed seats, the ratio has been lowered from one space for every 100 square feet of floor area (the highest parking ratio in the Code) to 300 (the standard for both general retail uses, as well as restaurants).
- **(Housekeeping)** A new phrase was added to those uses in Indoor Recreation with fixed seats to explicitly include “indoor sports facilities” as those uses needing one parking space per four seats.
- **(Housekeeping)** Parking for offices in the OG (General Office) zoning district should mirror parking for offices in the commercial and other zoning districts; that change is made to the parking table to the 1/300 ratio.
- **4.5.3C – Bicycle Parking**

This section deals with required bicycle parking for certain uses. The UDC encourages the installation of bicycle parking by reducing the required number of vehicular spaces.

  - **(Housekeeping)** Throughout this section, various citations to inverted U-racks are deleted since the design or racks is now covered in Paragraph **4.5.3C(5)**.
  - **(Housekeeping)** Where bicycle parking is required it must be within 200 feet of a functioning building entrance. Paragraph **4.5.3C(2)**, which was formerly a separate Paragraph (3), is amended to permit shared bicycle parking is allowed, allow it to be located anywhere on the same site as the uses sharing the parking facilities and be within 200 feet of *any* entrance.

- *(Housekeeping)* As mentioned above, Paragraph 4.5.3C(3) is amended to replace the U-rack language with a rack of a design as recommended by the Association of Bicycle and Pedestrian Professionals and cite its publication on the subject.
- *(Housekeeping)* A new Sub-Section 4.5.3C(4) is added that includes minimum setbacks for bicycle parking.
- *(Housekeeping)* A new Sub-Section 4.5.3C(5) is added that will allow the Planning Director to grant administrative deviations to the bicycle parking provisions for certain uses or if the site has physical constraints.
  
- **4.5.3E – Parking reductions – Housekeeping**

The parking reductions table is given a new Sub-Section number. Also, language is added that would give partial credit for limited-hours on-street parking. For example, an on-street parking space with a parking prohibition between 7-9AM and 4-6PM shall count as 5/6 space, since parking is not permitted for four hours over a twenty-four hour period (20/24). Also, the language on bicycle parking is deleted and a cross-reference is provided to that section of the Code.
  
- **4.5.5 – Parking design and maintenance**
  - *(Housekeeping)* Sub-Section 4.5.5A is amended to allow alternative configurations of parking spaces, as determined by City or County Engineer, such as for reverse-angle parking. The requirement that all parking lot design work being drawn by a licensed engineer is removed, as that is impractical in situations where an architect, contractor or property owner has submitted site plan drawings. In addition, new graphics are added to this section that will allow for greater flexibility in parking space design.
  - *(Housekeeping)* A new Sub-Section 4.5.5B adds dimensional requirements for tractor trailer parking.
  - *(Housekeeping)* Paragraph 4.5.5C(1) is altered slightly to change “asphalt bituminous” to “bituminous asphalt.”
  - *(Housekeeping)* Paragraph 4.5.5C(2) is altered to rephrase the term “pervious parking” with “non-surface parking.”
  - *(Housekeeping)* A new Sub-Item 4.5.5C(2)(b)(4) is proposed that would permit “truck terminals and other appropriate industrial uses” as uses with permitting pervious parking lots.
  - *(Housekeeping)* Item 4.5.5D(1)(a) is amended so it specify which Streetscape plates are available for situations where head-in parking abuts the right-of-way.
  - *(Housekeeping)* Item 4.5.5D(2)(b) is deleted since there are no streetscape plates that should be exempt from the requirement to install landscaping, particularly with the clarification to Item 4.5.5E(1) above.
  - Paragraph 4.5.5D(3)(a) is amended to allow different sizes and frequencies of parking islands. Also, a table is provided with this section that specifically speaks to island size and required landscaping inside the island.
  - Paragraph 4.5.5D(3)(b) is amended to allow Planning Director to waive the parking island minimum sizes.
  - *(Housekeeping)* A new Item 4.5.5D(3)(e) is added that will permit parking space depth of 16’ around interior islands.

- Paragraph **4.5.5D(4)** is amended to exempt small sites (those under one acre) from the requirement to install terminal islands, the landscaped islands that bookend each side of a row of parking. Also insert language that would allow the Planning Director to grant an administrative deviation to exempt larger sites from this requirement.
  - Paragraph **4.5.5D(5)** is amended to exempt small parking lots (those with fewer than five rows of parking) from the requirement to install perimeter islands.
  - Single-family, special purpose and other zoning districts are added to the language of Paragraph **4.5.5D(7)**, which sets maximum limits on sizes of parking pods that are broken up from one another by landscaped islands. This will cover non-residential uses in these zoning districts, such as places of worship.
  - (*Housekeeping*) A new Paragraph **4.5.5H(3)** has been added that will permit curbs to be waived around parking areas through the administrative deviation process.
  - (*Housekeeping*) Since the Office of Planning and Development is authorized to ensure compliance with the landscaping provisions of the Code, and not City or County Engineering, Sub-Section **4.5.5L** is amended to remove “City or County Engineer” from the party to whom authority is granted to approve landscaping plans that vary from this Section.
  - A new Sub-Section **4.5.5N** is added that will require crosswalks and walkways for internal pedestrian circulation of parking lots.
- (*Housekeeping*) **4.5.6A** – Queuing. Pharmacies and day cares are added to the list of uses of required queuing space for drive-through windows.
  - (*Housekeeping*) **4.5.7** – Loading. Only major loading areas shall be screened w landscaping; major loading areas are determined based on the presence of features which indicate the frequent handling of significant quantities of goods, as determined by the Planning Director.

87. **4.6 (formerly 4.7) – Landscaping and Screening**

- (*Housekeeping*) Sub-Section **4.6.2B** is amended to make clear that only the fencing and wall requirements of this chapter apply to single-family residential.
- (*Housekeeping*) Sub-Section **4.6.2C** is reworded to be clearer. Also, a reference is provided to the new Paragraph 2.8.3H(11) to require landscaping for temporary uses that are for in place for more than one year.
- (*Housekeeping*) A new Sub-Section **4.6.2E** is added that allows the Planning Director to permit alternative landscaping plans on a case by case basis; this is similar language to the existing Sub-Section 4.6.5M which permits the same for landscaping buffers.
- A new Sub-Section **4.6.2F** is added that exempts small utilities, such as fire hydrants and utility poles, from the landscaping requirements of the Code.
- (*Housekeeping*) Section **4.6.3** presently sets no parameters for the Planning Director for exempting a landscaping plan from being drafted by a licensed landscape architect. This amendment will set out a few items for the Planning Director when making that determination, such as size of project, whether the project involves a new building or an addition to an existing building, etc. In addition, 4.6.3 is amended to read that only new development that is 5 acres or larger fall under the requirement to hire a landscape architect to draw the landscape plan. Section 4.6.3 is also revised by detailing the requirements of an acceptable landscape plan.

- *(Housekeeping)* Sub-Section **4.6.4B** is amended by adding language on minimum requirements for required plant materials.
- Sub-Section **4.6.4E** is amended by increasing the period in which landscaping installation may be delayed due to weather concerns from 90 days to 180 days. This will enable plants to be planted during the two ideal times of the year, spring and fall. This Sub-Section is also amended by adding a requirement for the posting of cash escrow or a letter of credit to ensure the installation of landscaping. In addition, the beginning phrase to this Sub-Section is removed since there is no bonding program set out in 4.6.4G.
- A new Sub-Section **4.6.4H** will allow an applicant to utilize an abutting property in meeting its landscaping obligations, as well as the provisions of Chapter 6.1, the tree removal ordinance.
- Paragraphs **4.6.5A(2)** and **(3)**, which require additional setbacks for landscape buffers, are deleted. A buffer may be located within a setback. Requiring additional setbacks for buffers makes the setback section of the UDC meaningless.
- *(Housekeeping)* A new paragraph **4.6.5A(9)** is added that would permit the reduction of any required 10-foot parking setback in the Code if a Type A (7-foot) buffer is provided.
- A new Paragraph **4.6.5B(3)** is added that will require buffers along properties that are only separated by alleys.
- The table in Section **4.6.5B** is amended by removing references to Buffer Type IV (see below) and removing buffers between different industrial zoning districts.
- Item **4.6.5C(1)(a)** is amended by removing all references to Buffer Type IV.
- The first sentence of Item **4.6.5C(1)(b)** is deleted, which states that the required landscaped buffers should be over-planted initially. A new sentence is added at the end of this section that explains that, for required buffers that involve walls and fences, the landscaping shall be planted on the same side of the wall or fence as the subject site. Planting on the opposite side of the fence and wall would make proper maintenance impossible. The table and graphics at the end of this section is amended to reduce the buffer widths and reduce the overall buffers; square the table for Class II, Type B with the graphic; also delete all references to the deleted Class IV Buffer.
- *(Housekeeping)* A new Item **4.6.5M(1)(b)** is added that permits allowing an alternative buffer if the subject site is adjacent to property that may will unlikely be developed in the manner in which it is zoned (for instance, a long-vacant forest that is zoned residential).
- **Section 4.6.7 – Fences and walls**

The following changes are proposed for this Section, which deals with fences and walls:

  - *(Housekeeping)* New Sub-Sections **4.6.7A** and **B** are added that explicitly state that this section does not apply to retaining walls or temporary fencing around construction sites.
  - Sub-Section **4.6.7C**, which limits front yard fencing to be four feet in height, is reworded so it clearer and to state that it only applies to residential zoning districts.
  - *(Housekeeping)* Sub-Section **4.6.7E** is amended to exempt fencing for livestock from the prohibition on barbed wire and electric wire. Also, electrified fencing will be permitted in the industrial zoning districts. The end of this section is also amended to permit barbed wire and concertina wire in non-residential zoning districts by administrative deviation and add to list in 9.21.2D.
  - Sub-Section **4.6.7G** is amended to permit the Planning Director to grant administrative deviations to the setback of fencing. This section is also amended to provide direction to

the Planning director when making such administrative deviations: the types of fencing in the immediate vicinity, the classification of the roadway and the proposed use of the subject site.

- Sub-Section **4.6.7H**, which prohibits sections of fencing unbroken by brick columns, shall not apply to the industrial districts; also, it shall not apply to fencing along the right-of-way and not the sides and rear of properties. Commercial and other non-residential properties that abut residential will have whatever buffer is required in Sub-Section 4.6.5C.

- **4.6.8 – Screening**

The following areas of this Section, which deals with screening of loading areas, dumpsters, etc, are amended:

- (*Housekeeping*) The South Central Business Improvement District and Uptown Special Purpose Districts are added to Paragraph **4.6.8A(1)**, which prohibits drive-through windows between the right-of-way and the principal building.
- (*Housekeeping*) Paragraph **4.6.8B(2)** is amended to delete the language that dumpster enclosures be the same material as principal building so they are *compatible* with the principal building, as it would be difficult to construct a dumpster enclosure area for a EIFS or glass building under the current language. Also, the language referring to self-closing doors is removed. Finally, required dumpster enclosure height is lowered to six feet from eight feet.
- Paragraph **4.6.8B(4)** is amended to lower the 50-foot separation between dumpsters and residential zoning districts to 25 feet from residential structures. If there is no residential structure on the abutting property, or if the dumpster is screened by a masonry wall, then the dumpster shall be no closer than 7 feet from the property line.
- (*Housekeeping*) Sub-Section **4.6.8C** is amended by requiring that only “major” loading areas be screened. Thus, the title of this Sub-Section has been renamed to include the work “major.” A cross-reference is provided to Sub-Section 4.5.7C, which defines major loading areas.
- (*Housekeeping*) Paragraph **4.6.8D(1)** is amended so as to require screening of mechanical equipment that lies within 150 feet of residential properties and public right-of-way.
- (*Housekeeping*) Paragraph **4.6.8D(4)** is amended to exempt all MLGW infrastructure (except minor and major utilities) so that small items such as cabinets are not encompassed.

- **4.6.9 – Approved plant list – Housekeeping**

The UDC omits a list of trees that are acceptable to plant in accordance with this Section. It instead refers to a “Memphis and Shelby County Landscape Manual.” The old Zoning Code contained a list within its body, which made for both easier reference and eliminated the possibility of a cumbersome landscape manual from being administratively adopted. This proposal involves inserting the plant list from the old Zoning Code. It also changes all references to the landscape manual to this new section, 4.6.9.



88. **4.7 – Outdoor lighting – Housekeeping**

This entire section, which deals with such issues as parking lot lighting, is being replaced with language that is more in line with the trends of the lighting industry. The deleted portions of this ordinance are not shown.

89. **4.8.4 – Outdoor storage and display – Housekeeping**

The following provisions of the outdoor storage and display section are recommended for modification:

- Item **4.8.4A(2)(a)** is deleted, as it requires all outdoor display to be taken inside each night. This obviously would not work for many items for which the outdoor display section of the Code was written, such as soft drink and ice vending machines.
- Item **4.8.4B(3)(a)**, which deals with salvage yards, is amended by separating salvage and junk yards out from the rest of the general outdoor storage uses and squared with Chapter 2.5 of the Code (the “Use Table”). While general outdoor storage is permitted by right in the EMP, WD and IH (the industrial) zoning districts, 2.5 requires “junk and salvage yards” to obtain a Special Use Permit in the IH district and completely prohibits them in the other zoning districts.
- Currently, Sub-Item **4.8.4B(3)(b)(1)** only exempts one industrial district – the WD, warehouse district – from the landscaping screening requirement of this section. This modification will add the other industrial zoning districts, the EMP and IH districts, to this list, provided the site is more than 500 feet from single-family residential, as measured along the public ROW.

90. **4.9 – Signs**

Chapter 4.9 is the sign code for the City of Memphis and unincorporated Shelby County. Throughout this chapter, all citations to the Municipal Code Corporation’s codification system and actual ordinance numbers are amended to reflect the sections of the Memphis Code as adopted. In addition to these amendments, the following are also proposed to this chapter:

- (*Housekeeping*) Paragraph **4.9.4A(1)** prohibits bench signs. It is being amended to provide an exception for benches owned by MATA.
- (*Housekeeping*) Paragraph **4.9.4A(4)** prohibits any signs from being located on utilities poles, but the City utility pole installation policy permits certain banners and neighborhood signs on utilities poles, so an exemption has been provided for those signs that meet City or County utility pole installation policy.
- Paragraph **4.9.4A(7)** prohibits any sign that is “animated or produce[s] any rotation,” but this would prohibit such landmark signs as the Joe’s Liquors sputnik at Poplar and Belvedere. Therefore, this language is removed from Paragraph (7) and a new paragraph **(8)** is provided that will allow these kinds of signs in the commercial and industrial districts.
- (*Housekeeping*) The graphics in Sub-Section **4.9.6B** are replaced with signs of better quality; there are otherwise unchanged.
- (*Housekeeping*) In addition to the list of prohibited signs outlined in Paragraph **4.9.6D(3)**, additional prohibitions are added, such as digital or LED signs.
- (*Housekeeping*) The requirement to enter into hold-harmless agreements that are included for projecting signs in Sub-Sections **4.9.6J and K** are removed since encroachment agreements for awnings are covered in Item 3.2.11E(2)(d).

- *(Housekeeping)* Paragraphs **4.9.6M(3) and (4)** are amended to add the word “adjacent” before “property zoned for single-family residential uses” to eliminate confusion as to whether wayfinding signs are permitted at all on school and place of worship sites in residential zoning districts. Adding the word “adjacent” addresses this confusion and will not require all schools and places of worship to obtain a Board of Adjustment variance for wayfinding signs that are more than 50 feet away from adjacent residential. This distance requirement will match the existing language in Paragraph 4.9.7B(3) below for permanent, non-wayfinding signs.
- *(Housekeeping)* Item **4.9.7C(4)(a)** is amended to permit a ground-mounted sign for each additional non-ground floor establishment (the existing wording appears to only permit one non-ground floor sign per site).
- *(Housekeeping)* Paragraph **4.9.7B(5)** is amended to differentiate the maximum heights of detached and attached signs in the residential zoning districts.
- *(Housekeeping)* Sub-Sections **4.9.7E and F** are deleted since the cross-reference for the Uptown and South Central Business Improvement Special Purpose Districts is provided in Paragraphs 4.9.2B(6) and (7).
- *(Housekeeping)* Paragraph **4.9.7G(8)** is amended to permit two neighborhood complex signs because there are typically two walls flanking an entrance drive.
- *(Housekeeping)* Paragraph **4.9.8A(1)** is amended to remove the parenthetical phrase after CBD since no CBD zoning district lies outside of the CBID.
- *(Housekeeping)* The reference to Chart II, which was located in the old Zoning Code, has been deleted from Sub-Section **4.9.8D**.
- *(Housekeeping)* A new Sub-Section **4.9.8F** is proposed that would specifically exempt billboards from the landscaping requirements of the Code unless specifically conditioned by the Board of Adjustment, Land Use Control Board of governing body.
- *(Housekeeping)* Paragraph **4.9.8G(1)** is amended to increase the 10-foot setback between billboards and interstate highway right-of-way to 20-foot setback to align with Sub-Section D above.
- *(Housekeeping)* Item **4.9.8G(4)(a)** is deleted since this section since it simply repeats 4.9.8A(1).
- *(Housekeeping)* Paragraph **4.9.8G(7)** is also deleted since it simply repeats 4.9.8A(2) and (3).
- *(Housekeeping)* The second sentence of **Paragraph 4.9.9A(4)** is removed since it pertains to permanent signs, which is covered in another section, and this issue is covered there.
- Paragraphs **4.9.9B(4) and C(4)** are made simpler and clearer by removing contradictory language
- A note is added at the end of Note 2 at the end of the **tables** in Section **4.9.13** that exempts off-premise signs from the frontage requirements since they are usually placed on their own individual parcels.
- The **maps** in Section **4.9.13** are replaced with cleaner maps. Also, Map No. 2 is updated to reflect the new section of TN385 (future I-269) that is also known as the Collierville-Arlington Parkway.
- Item **4.9.15F(1)(c)** is amended to allow an on-premise nonconforming sign to go 30 months of discontinuance before it loses its grandfathered status. This squares with the proposed changes to Article 10 and is in keeping with the Tennessee Code Annotated on the subject.

- *(Housekeeping)* A new Paragraph 4.9.15F(4) is provided that stipulates that removal includes the entire sign structure and not just the frame. Some property owners in the past have claimed that Sub-Section 4.9.15 only requires the removal of the frame.

91. **4.10 – Planned developments – Housekeeping**

This Chapter is devoted to planned developments. The following sections are proposed to be amended:

- A new Sub-Section **4.10.3F** is added that will stipulate that lots of record are created with the recording of a PD final plan. This has been the case since Memphis and Shelby County started approving planned developments decades ago but has never been codified.
- The formal open space requirement in Sub-Section **4.10.4A** is amended to change 0.6% to 1.6% for consistency with Section 3.8.2A of the Code.
- A new Sub-Section **4.10.4F** is added that will stipulate that the distance requirements of this Code, such as distance between bars and residential zones, shall apply to residential planned developments, regardless of the underlying zoning.

92. **5.1.1 – Applicability of Article 5 (Infrastructure and Public Improvements)**

A new sentence is added to Sub-Section **5.1.1A** to

93. **5.2 – Streets and alleys**

This Chapter essentially includes the subdivision regulations of the UDC. Street layout, design and dedication requirements are found in this section. The following changes are proposed:

- The Memphis Metropolitan Planning Organization’s Long Range Transportation Plan may not be used to require dedication and improvement of roadways. Instead, the Major Road and Collector Road Plans approved by the individual municipalities may be used. Section **5.2.1** is amended to reflect this change. Incidentally, the City of Memphis has an approved Major Road Plan that can be used to require developers to dedicate. A Collector Road Plan has not yet been drafted or approved.
- A new “purpose” section is added as Sub-Section **5.2.1A**.
- Sub-Section **5.2.1B**, which deals with payments in lieu of road improvements, is reworded for clarity.
- A new Sub-Section **5.2.1G**, which references the clear sight triangle section of the Code, is added. Although clear sight triangle, or the area at an intersection that should be free of obstructions to allow safe vehicular movement, is not necessarily a subdivision regulation, it should play a role in the initial layout and design of streets.
- *(Housekeeping)* The language of Sub-Section **5.2.3C** is amended to clarify the dedication process for alley intersections and sharp changes in alignment.
- *(Housekeeping)* Sub-Section 5.2.3E is re-worded to make it clear that alleys may not be used in the determination of a block, in accordance with the approved graphics and language of Section 5.2.5.
- A new Sub-Section **5.2.3F** is added that will discourage public alleys. It is preferable that alleys be private and maintained by a homeowners association.
- *(Housekeeping)* The second sentence of Sub-Section **5.2.4A** is removed, which seems to imply that a connecting street may only be a maximum of two lanes.

- (*Housekeeping*) The second sentence of Sub-Section **5.2.4C** is removed since the exceptions found in Chapter 3.3, Blocks, for street connectivity are essentially found Paragraph “5” below (the waiver process of the Land Use Control Board).
- (*Housekeeping*) A new Section **5.2.5** includes the “Blocks” language that was removed from Chapter 3.3. The following changes are made to this Section:
  - A new **introductory paragraph** is included that stipulates this section only applies to applications for major subdivisions and planned developments.
  - Paragraph **5.2.5A(1)** is reformatted so that the sentence starting with “A block is bounded by” should be Paragraph “1,” the old Paragraphs “1” and “2” should be Items “a” and “b” under the new Paragraph “1” and the old Paragraphs “3” and “4,” which are not part of the definition of a “block” should be renumbered as “2” and “3.”
  - A new Paragraph **5.2.5B(4)** is added to spell out the procedure for block size and perimeter exceptions. They shall be processed by the Land Use Control Board as special exceptions; a similar amendment adds this to the list of items that are special exceptions in Chapter 9.14.
- **5.2.6 – Street layout – Housekeeping**

This Section addresses actual street layout that a developer adheres to during the subdivision process.

  - Paragraph **5.2.6A(4)**, dealing with reverse tangents, is removed. Tangent sections between reverse curves, which is covered by this Paragraph, is required as a transition between two superelevated curves. Surface streets in Memphis and Shelby County are not superelevated and thus, do not need the transition.
  - In addition, Paragraph **5.2.6A(6)** is removed, which requires streets to intersect with one another at right angles. This is now addressed in Sub-Section 5.2.12B, which is included in a new section drafted by City Engineering devoted solely to intersections.
  - A new Paragraph **5.2.6A(9)** is added, which grants the City or County Engineer the authority to require greater standards regarding street layout if site-specific conditions warrant.
- **5.2.7 – Street standards - Housekeeping**

This Section contains actual dimensional requirements for new streets. This was previously found in Chapter 4.4, but has been moved to Chapter 5.2 as a more appropriate location. The following changes are proposed to this section:

  - Now that these street standards are included in Chapter 5.2, there is no need to cite this Chapter so Paragraph **5.2.7A(4)** is removed completely.
  - Sub-Section **5.2.7E**, which deals with cross sections of rural roadways, is amended by removing the maximum width of rural streets of 20 feet from edge of pavement to edge of pavement. Typical rural roadways are 24 feet in width, and many, such as those throughout the City of Memphis such as Shady Grove Road, are 30 feet in width. Also, stipulate that rural streets may exist within the City limits of Memphis since many older subdivisions have rural cross-sections and their residents wish to maintain these cross-sections.

- *(Housekeeping)* The corner radii section of the Code has been moved from Section 3.2.5 to 5.2.8 since it should be placed with the other subdivision regulations. This Section is amended to allow for greater turning movements by large vehicles in most areas of the city and county.
- The table in 5.2.8B(4) is amended by removing all but two columns since the adjacent land uses and zoning districts have little or no relation to the size and types of trucks that may be traveling on the subject roadway. The newly created column to the right reflects reduced curb radii in the CBID (downtown) and the area with the Parkways.
- *(Housekeeping)* A new Section 5.2.9 is proposed that reinserts the intersection tangents that were part of the old Subdivision Regulations. These were inadvertently deleted from the street design requirements with the initial adoption of the UDC. Likewise, the return of the language on horizontal curves (new Section 5.2.10), design speeds (new Section 5.2.11), intersections (new Section 5.2.12) and sight distance (new Section 5.2.13) from the Subdivision Regulations are also proposed.
- *(Housekeeping)* Sub-Sections 5.2.14A and C are amended to remove the requirement that all cul-de-sac must have islands. This could be problematic in situations where the subdivision has no established homeowners or property owners association to maintain the island.
- *(Housekeeping)* Section 5.2.15 is amended by requiring a Type III barricade at the end of dead end streets.
- *(Housekeeping)* Sub-Section 5.2.16A, dealing with dedication and improvement of roadways, is amended by removing all references to the outdated concept of Long Range Transportation Plan Priorities I, II and III. Instead, references are provided to the LRTP or Major Road Plans. This also involves the deletion of Sub-Sections 5.2.16D, E and F.
- *(Housekeeping)* A new Sub-Section 5.2.16C is added that will permit the City or County Engineer to waive the construction of improvements if the street section is not contiguous to another section of improved roadway. A cross-reference is also provided to the newly revised Section 4.3.4, which allows the City or County Engineer to waive requirements if there is no CIP project to widen or improve the roadways in 10 years.
- *(Housekeeping)* A reference to the gate queuing requirements (Section 4.5.6) has been added to Paragraph 5.2.17B(2), which covers gates on private streets.
- *(Housekeeping)* A private street conversion “procedure” has been inserted as Sub-Section 5.2.18(A), which is the first section of the existing private street conversion language. Public-to-private street conversions inside PDs with established HOAs that already maintain COS shall be either processed administratively as PD amendments, but not as right-of-way vacations.
- *(Housekeeping)* A new Sub-Section 5.2.18(G) is inserted into the private street conversion section that stipulates that private streets must have a physical delineation as they border public streets to assist Public Works as they maintain the bordering public street. This may be waived by the Land Use Control Board through the special exception process.
- *(Housekeeping)* Further details are added to Section 5.2.19 on the street naming process. The City Engineer has this authority for streets inside the City; MLGW if outside the City. Also, a new Sub-Section 5.2.19C has been added that directs attention to MLGW’s street naming policy.
- *(Housekeeping)* A new Section 5.2.20 is provided that sets out the requirements for street name signs.

- (*Housekeeping*) Language is added to Sub-Sections **5.2.21A and B** to allow rural streets to be exempt from sidewalks and require that sidewalks be compliant with the Americans with Disabilities Act (ADA).
- (*Housekeeping*) Section **5.2.22**, which covers bicycle facilities, is revised to cite the MPO bike plan, which is the authoritative source on the appropriate dimensions of bikeways.

94. **5.3 – Utilities – Housekeeping**

This chapter addresses the utilities required for lots and subdivisions developed in Memphis and Shelby County. The following changes are proposed:

- In Section **5.3.1**, the term “City” is replaced with “public” to incorporate other municipal utilities if the Code is adopted outside of the City of Memphis.
- In Paragraph **5.3.2A(2)**, “Shelby County Fire Department” is added alongside the Memphis Fire Department. This change is also made to Paragraph 5.3.2C(3), in addition to a reference to fire flow standards mutually agreed upon by MLGW, the City and the County Fire Departments.
- Sub-Section **5.3.3B** is revised on the design requirements of sanitary sewer systems. Paragraph **5.3.3B(2)** is revised to stipulate that sewer lift stations will be reviewed on a case-by-case basis. A new paragraph **5.3.3B(3)** is proposed that will add language for subdivisions designed without sanitary sewer; this language is from the old Subdivision Regulations.
- Sub-Section **5.3.3C**, which focuses on septic systems, is wordsmithed to remove “Memphis” from the “Memphis and Shelby County Health Department.”
- Two changes are proposed to Sub-Section **5.3.4A**, which deals with aboveground electrical utility equipment in the right-of-way: stipulate that these utilities must provide a minimum three-foot passageway on sidewalks and that MLGW (as opposed to the “City or County”) shall determine whether underground electrical service is feasible.

95. **5.5 – Improvements – Housekeeping**

This chapter addresses required improvements – both public and private – that are required with a subdivision, a planned development, and occasionally, with the development of a single lot. The title to this chapter has been changed from “Public Improvements” simply to “Improvements” to cover private improvements. In addition to this change, the following modifications are proposed to Chapter 5.5:

- A new Sub-Section **5.5.1A** is inserted at the beginning of this Chapter that will require a development contract for the installation of all public improvements. This contract is processed through either the City or County Engineer’s Office.
- A new Sub-Section **5.5.1C** is inserted to stipulate that the issuance of a building permit by the Office of Construction Code Enforcement does not exempt a developer from obtaining a development contract through the City or County Engineer’s Office.
- A new Sub-Section **5.5.1D** is inserted that will exempt the City, County or any of their divisions from the necessity to enter into improvement contracts with itself for improvements made within the ROW.
- Section **5.5.3** has been simplified by removing superfluous and potentially misleading information.
- Sub-Section **5.5.5A** is amended to include a list of projects that may require a standard improvement project. For instance, a very large project that is approved through administrative

site plan approval (ASPR) may require a development contract. Language is also added that allow the City or County to require a development contract for single-family projects that involve purely private improvements, such as private streets. With the inclusion of the possibility that private improvements may be part of a development contract, the word “public” is removed throughout Section 5.5, which explains the bonding process for improvements.

**96. 6 – Open space and natural resource protection – Housekeeping**

Article 6 discusses the tree removal process in Memphis and Shelby County.

- Paragraph 6.1.2A(5) is amended to insert “as of Feb 26, 2001.” That is the original date of the passage of the tree removal ordinance. Also, the term “Director” is changed to “Planning Director.”
- A new Paragraph 6.1.2A(6) is added that will exempt minor utilities such as fire hydrants and utility poles from the need to obtain a tree NOI.
- A new Paragraph 6.1.2A(8) is added that requires a utility company that destroys or substantially damages a *street tree* inside the ROW to replace it with a similar specimen of at least 2 inches dbh (diameter at breast height).
- The term “TDOT” is inserted in Paragraph 6.1.3A(9) to cover any long range transportation plans the state may have.
- The last **graphic** in Section 6.1.6 is amended to reinsert the term “prior to issuance of a certificate of occupancy” this line was inadvertently omitted when this graphic was transferred to this Code from the old Zoning Code.
- A new line has been added to Chapter 6.5 that stipulates that water wells are not covered by the resource extraction provisions of the Code.

**97. 7 – Special purpose districts – Housekeeping**

Article 7 deals with special purpose districts. These precursors to the overlay districts are different from overlays in that they contain their own unique zoning districts, each with their own unique regulations. Overlays, on the other hand, have additional regulations but the underlying zoning districts are consistent with principal zoning districts found in Chapter 2.5. The following modifications are proposed for this section of the Code:

- A new opening section, Chapter 7.1, is provided at the beginning of Article 7 that covers a few basics. Sub-Sections A, B and C contain language that matches language proposed for the overlay districts. See descriptions below for Sub-Sections 8.1A, B and C.
- The proposed Sub-Section 7.1D is not found in the overlay districts. It states that, if a parcel is abutting or across the street from a parcel zoned as one of the special purpose district zoning districts, a request may be submitted for a rezoning to one of the special purpose district zoning districts pursuant to Chapter 9.5. In other words, unlike the overlay districts, the special purpose districts are expandable. This is consistent with current practice, as a few parcels on the east side of the Wolf River harbor have been rezoned into Uptown zoning districts.
- A new proposed Sub-Section 7.1E covers sign regulations throughout the special purpose districts. A **map** has been inserted that shows the boundaries of the Central Business Improvement District (CBID) and the portions of the Uptown and South Central Business Improvement District (SCBID) special purpose districts that lie outside of the CBID. For both areas, the sign regulations of the CBID ordinance govern. For those parcels inside of the CBID, the procedure outlined in CBID ordinance rules (applications made to the Downtown Memphis Commission Design Review Board, appealable to the Downtown Memphis

Commission and then appealable to the Memphis City Council); for those parcels outside of the CBID, the regular sign permitting process is observed (applications made to the Office of Construction Code Enforcement and appealable to the Board of Adjustment).

- A new Sub-Section **7.1F** highlights the applicability of Article 7 to subject parcels. The same threshold that is used for the overlay districts is provided.
- A new Sub-Section **7.1G** provides a cross reference to Chapter 9.13, which spells out the administrative site plan review process for the special purpose and overlay districts.
- The sign regulations found throughout Article **7** are deleted since the new Sub-Section 7.1E directs readers to the CBID ordinance that is contained in the Memphis City Code. These deletions are not shown in the revised UDC document, but were codified as Sub-Section **7.2.7H**, Section **7.2.11**, Sub-Section **7.3.5G**, Sub-Section **7.3.6G**, Sub-Section **7.3.7G**, Sub-Section **7.3.8H**, Sub-Section **7.3.9F** and Section **7.3.11**.
- Farmers markets are added as allowable uses throughout Section **7.2.2** for the zoning districts that are not purely residential: South Main (SM), Bluffview Residential (RB), South Downtown Business Park (SDBP) and Gateway Commercial (CG).
- A new Section **7.2.11** states that PDs are permitted in the SCBID Special Purpose District.
- Throughout Chapter **7.3**, the regulations for the Uptown special purpose district, all references to the CBID ordinance are changed to the codified ordinance number rather than the ordinance number.
- A new Section **7.3.3** is inserted to clarify an item of confusion. A small area of the Winchester Park neighborhood lies both within the Uptown Special Purpose District and the Medical District Overlay. Section 7.3.3 stipulates that, for these areas, the regulations of the Medical District Overlay apply where the two regulations conflict.
- At the end of Sub-Section **7.3.4D**, a sentence is added that permits single-story buildings in the Neighborhood Center Overlay. This aligns with an amendment to the Redevelopment Plan for the Uptown Area approved by both legislative bodies in 2009, but this amendment was not made to the old Zoning Code. A similar amendment is proposed in Sub-Section **7.3.7A** for the Mixed Use zoning district, which was also approved in the Redevelopment Plan.
- The site plan and elevation graphics that were approved with the original Uptown zoning regulations but inadvertently removed with the adoption of the UDC are returned in Section **7.3.7**.
- A new row is added at the bottom of the table in Section **7.3.11** that permits PDs in the Uptown Special Purpose District.
- In the use tables in Section **7.3.12**, farmers markets have been added as a use by right in the Uptown zoning districts that are not purely residential: Mixed Use (MU and Uptown Light Industrial (ULI) and by special use permit in the Uptown Hospital (UH) district, since other commercial uses required special use permits in that district. This is consistent with amendments proposed in the SCBID special purpose district.

**98. 8 – Overlay districts, generally**

Article 8 contains the regulations for the overlay districts. There are several types of overlay districts. Three are similar to the special purpose districts described in Article 7. These are the Medical, University and Midtown Overlay Districts (old Chapters 8.2, 8.3 and 8.11). A new Chapter **8.2** has been created for these overlay districts. Other overlay districts are related to the floodplain and require buildings to be built a certain elevation above the 100-year floodplain. These are the Floodplain and



Fletcher Creek Overlay Districts (Chapters 8.6 and 8.79). Another type of overlay district is the Historic Overlay (Chapter 8.4), through which the Memphis Landmarks Commission exercises its authority.

- A new Chapter **8.1** and Sub-Section **8.1A** describes the overlay districts.
- A new Sub-Section **8.1B** states that, if a standard found elsewhere in the Code but not specifically mentioned in the overlay district section, it nevertheless applies to properties within the overlay district. For instance, the distance standards associated with certain uses such as payday loan establishments.
- A new Sub-Section **8.1C** states that if there is a conflict with the regulations of the overlay district and the regulations found elsewhere in the UDC, the overlay district applies.
- A new Sub-Section **8.1D** states that any change to a frontage or height map is processed as a zoning text amendment, which requires approval by both legislative bodies.

99. **8.2 – Frontage Overlays**

This new Chapter has been inserted which stipulates that the Medical, University and Midtown Overlay Districts (the “frontage overlays”) will use the same process language that was approved by the Memphis City Council and Shelby County Board of Commissioners for the Midtown Overlay. This involves variances being treated as special exceptions rather than variances so that they will be processed by the Land Use Control Board rather than the Board of Adjustment. Under the authority granted to municipalities in the state by the Tennessee General Assembly, a City’s Planning Commission is permitted to review design regulations of non-single family structures in the absence of a Design Review Commission (TCA 6-54-133). As many of the regulations found in the design overlays require design review, the Land Use Control Board (Memphis and Shelby County’s “Planning Commission”) is the most appropriate venue for these items to be heard. Appeals are processed to the appropriate governing body or bodies.

100. **8.2.4 Medical Overlay District**

The following amendments are proposed in Chapter 8.2, which is devoted to the Medical Overlay District:

- Item **8.2.4C(1)(c)** is amended and new sub-items “**b**” and “**c**” are created to allow for the manufacturing of certain products if for medical purposes. Also, a new sub-time “**g**” is added to **8.2.4C(2)** to explicitly permit planned developments in the Medical Overlay District, which is consistent with the other two frontage overlay districts.
- (*Housekeeping*) The **height map** in Sub-Section **8.2.4D** was revised since the colors for Areas 1 and 2 were transposed in the original version of the UDC. Also, the height map was merged with the **frontage map** to create a **height and frontage map**.
- The **height and frontage map** was revised to reflect a less-intense frontage on Union east of Dunlap and to remove frontage requirements from Poplar east of I-240. These changes will serve as transitions from the more urban CBD area to the west of the Medical District and the less urban Midtown Overlay to the east.
- The second part of Sub-Section **8.2.4F** is removed as it is no longer necessary. Also, a new Sub-Section 8.2.4G is provided which explains conflicts between the Medical District and the Uptown Special Purpose District, which overlap in a small area north of Poplar and east of Danny Thomas.

**101. 8.2.5 – University District Overlay**

The following amendments are proposed in Chapter 8.3, which is devoted to the University District Overlay:

- Most of Section 8.3.6 may be deleted since it is now covered under the UDC (the Medical, University and Midtown Overlays predate the UDC, so they contain repetitive information). However, the regulations pertaining to parking are retaining since they differ from those of the UDC. Amendments to the parking regulations include requiring minimum parking requirements for multifamily uses (Paragraph **8.2.5F(1)**); deleting requirement that all parking contain a minimum amounts to be in pervious material (Paragraph **8.2.5F(2)**); adding pervious surface provisions (Paragraph **8.3.6C(3)**) and parking setback requirements (Paragraph **8.2.5F(4)**).
- (*Housekeeping*) A note is added to Paragraph **8.2.5G**, that stipulates that while the sign regulations of the Downtown Memphis Commission is used in the University District Overlay, the procedure is not.
- Sub-Section **8.2.5H**, which contains the permissible uses in the University District, is retained but changes are made to some of the permissible residential uses to allow single-family residential in the single-family residential zoning districts. Also, 8.2.5H is amended by adding “planned developments” to all zoning districts in the University District overlay, which is in line with the Midtown Overlay District use table.

**102. 8.2.6 – Midtown District Overlay – Housekeeping**

As with the Medical and University Overlays, all repetitive sections of the Midtown District Overlay have been removed. Since the Midtown District Overlay was drafted after the UDC, its language is verbatim to that of the UDC. The only portion of the Midtown Overlay that differed from that of the UDC was the prohibition of certain uses, such as adult entertainment, billboards, etc. This is now covered in Chapter 8.2.

**103. 8.4 & 8.9 (old numbering) – Transitional Office and Neighborhood Conservation Overlays**

These Chapters have been eliminated; the transitional office overlay was created by a zoning text amendment several years ago and has never been mapped onto the Zoning Atlas. The Neighborhood Conservation Overlay was created with the adoption of the UDC, but upon further review, staff feels that it should be eliminated due to the following reasons: 1) it stands on questionable legal authority as no enabling legislation is in place giving the City of Memphis or the County of Shelby authority to regulate single-family homes, with the exception of historic overlay districts (ie, the Landmarks Commission); 2) it could potentially diminish redevelopment occurring in many of the City’s neighborhoods; 3) it could potentially create a hostile environment between neighbors with those pursuing reconstruction on one side and those pursuing the status quo on the other; and 4) its low threshold of requiring only 50% approval of property owners within a specified geographic area is in stark contrast to the 72% required for the creation of a historic district.

**104. 8.4.2A – Landmarks Commission – Housekeeping**

The word “County” has been inserted along with “City” each time “City” is found to allow for the future creation of a County Landmarks Commission.

**105. 8.6.5B(1)(a) and (2)(a) – Floodplain overlay**

Nashville requires finished floor elevation in its floodplains to be four feet above the 100-year flood level. Currently, the UDC requires the finished floor elevation to only be one foot above the 100-year flood level. This amendment will increase this requirement to 30 inches, which is already the standard in the Fletcher Creek Overlay (see Chapter 8.9).

106. **8.7 – Fletcher Creek Overlay – Housekeeping**

A map has been inserted at the beginning of this section that shows the area within the overlay.

107. **9 – Administration**

This article deals with processes and procedures of the UDC. In other words, it explains which items may be approved administratively and which items proceed to the Land Use Control Board, City Council/County Board of Commissioners and Board of Adjustment. Throughout Article 9, the following changes will be found: a new category dealing with “Special Use Major Modifications.” This concerns changes to approved Special Use Permits that require Land Use Control Board action, such as time extensions on expired or expiring Special Use Permits. Previously, there were only two categories dealing with Special Use Permits; those that could be approved administratively by the Planning Director and those that required governing body action. Another change found throughout Article 9 is the allowance to request time extensions after a particular project’s expiration date has passed. This has proven to be very problematic in the past, with financing becoming much more difficult than in the past. Finally, the term “neighborhood meeting” is rephrased throughout Article 9 to read “neighborhood notification” since the intent is to avail neighbors the opportunity to discuss and, if neighbors request, meet rather than requiring a pre-Land Use Control Board meeting to which no neighbors attend.

108. **9.1.8 – Technical Review Committee – Housekeeping**

The Technical Review Committee (“TRC”) is composed of members of various City and County departments that review applications before they proceed to the Land Use Control Board and legislative bodies. The term “recommendation” is removed from Sub-Section **9.1.8B** since it is the Office of Planning and Development that makes recommendations on projects. Also, Sub-Section 9.1.8B is divided into paragraphs: Paragraph “**1**” discusses the more minor items that may not necessitate TRC review; Paragraph “**2**” lists that items that require TRC review.

109. **9.2 – Summary of review authority – Housekeeping**

Chapter 9.2 provides an overview of which boards and bodies review which land use applications. The following modifications are made to this section of the Code:

- The second table in Chapter 9.2 is Section **9.2.2**, the Summary of Review Table. The following changes are made to this table:
  - The last few **columns** on the right hand side of the table have been removed since that information is repeated in Section 9.3.4.
  - The changes described above on the authority of the TRC in Sub-Section **9.1.8B** are reflected in the table.
  - A new column has been provided for the **City or County Engineer**: he or she has review and recommendation authority over a few things, as proscribed throughout the Code, that is not reflected in this table.
  - The table is amended to reflect revised nomenclature for Special Use and Planned Development **modifications**.

- **Final plats that require public contracts** shall require approval by the governing bodies, per Sub-Item 9.7.4A(4)(b)(1).
- **Appeals of special district administrative site plan review** by OPD staff should be directed to the Board of Adjustment, as is the case for administrative site plan review outside of the special districts. Variances inside the special purpose districts are heard by the Land Use Control Board as special exceptions.
- The **footnote** at the bottom of the table for “D\*” is reworded to permit appeals to the governing bodies from individuals in opposition to a particular project who were unable to attend the Land Use Control Board (LUCB) meeting but did send OPD a written objection prior to the LUCB meeting. The same change is made to Sub-Section **9.6.8C** and a new Sub-Section **9.7.7J**.
- A new **footnote** is provided for “A\*,” which stipulates that only the subject property owner may appeal a decision by the Planning Director. Since only the property owner is notified of these items, there is no way for adjacent property owners to know to appeal. These items are minor in nature, so adjacent property owners do not – and should not – have standing to appeal these decisions. However, if appealed, adjacent property owners will be notified, pursuant to 9.3.4A.

110. **9.3 – Common review procedures**

Chapter 9.3 continues the descriptions of procedures found in Chapter 9.2, only with greater detail. The following amendments are proposed for this chapter:

- *(Housekeeping)* Section **9.3.1** describes the pre-application conference with Planning staff. Sub-Section **9.3.1A** is amended so this process is clarified. Sub-Section **9.3.1B** is amended to require pre-application conferences for plat revocations. Sub-Section **9.3.1C** is amended to state that a pre-application conference is option for any application not listed in sub-section B above.
- Section **9.3.2** describes the neighborhood meeting that is required for many land use applications. Sub-Section **9.3.2A** is amended in the following ways by adding language that will require an applicant to hold a neighborhood meeting no sooner than 120 days prior to the Land Use Control Board hearing on the case. The paragraph following the list of Paragraphs 1-3 is added to provide that the applicant shall contact the neighbors, but not necessarily hold a meeting. Therefore, the title of Section 9.3.2 is changed from “Neighborhood Meeting” to “Neighborhood Notification.” This change is also made throughout the balance of Article 9.
- *(Housekeeping)* Section **9.3.3** contains the application requirements for type of land use case. The table in Sub-Section **9.3.3A** highlights which party may initiate a variety of applications, but nowhere are the terms “body, board and staff” defined. The opening paragraph to this sub-section is amended to define these terms. Sub-Section **9.3.3B** also contains a table that directs each applicant to either the Planning Director (in his or her capacity as Administrator of the Office of Planning and Development) or the Building Official (in his or her capacity as Administrator of the Office of Construction Code Enforcement). A few items are added to square with changes throughout Article 9 (such as SUP and PD modifications and Change in Nonconforming Use Permits) and the administrative site plan review process is changed from the Planning Director to the Building Official.
- *(Housekeeping)* Section **9.3.4** contains the requirements for public hearings and notifications for each type of land use request. The following changes are proposed to this section:

- The requirement for **newspaper notification** for Board of Adjustment and rezonings at the Land Use Control Board are removed to be consistent with the requirements of the old zoning code. This type of notice is an ineffective and antiquated way in which to provide notice and is not required by the Private Acts governing the Board of Adjustment or Land Use Control Board. The mailing of notices, which will be provided for all cases going before these bodies, is a much more effective manner of notification.
- Notice requirements are added for subdivision **minor preliminary plans**. Under the proposal, abutting property owners will be notified of the Technical Review Committee date.
- The same notice required for variances is provided for the new **Change in Nonforming Use Permits**.
- The Special Use Permit and Planned Development portions of the left column are amended to square with the new nomenclature for **modifications** of these types of applications.
- The appeals process for **special district administrative site plan review** should match that of other administrative site plan review: appeals should be heard by the Board of Adjustment. Any variance of the special district will be heard by the Land Use Control Board as a special exception.
- **Adjacent property owners** should only be mailed notice for items that permit Planning Director approval; such Special Use Permit minor modifications, Planned Development minor modifications and minor subdivisions; upon appeal only. This is the case with the other items that permit Planning Director approval, such as administrative site plan review and special district administrative site plan review.
- In the **footnote**, “PH-RO” can be deleted and replaced with “PH-OP/AP” with the definition “Public Hearing upon Opposition Present at LUCB or upon Appeal Only.” This is consistent with the amendments proposed for Section 9.6.8.
- A new **Footnote 4** is provided to define the term “adjacent owners” as those abutting property owners, plus those across the street from the subject site. This is consistent with current OPD practice.
- Language from the old Zoning Code is added to Sub-Section **9.3.4C** to clarify a few issues regarding sign posting.
- Sub-Section **9.3.4D** is amended to state that mailed notice shall be provided no later than 10 days before the meeting; this is consistent with both the old Code and the Private Acts. This Sub-Section is also amended to explicitly provide for mailed notice to properties owners that may reside in a neighboring municipality, county or state. Also, only those property owners inside Shelby County will be notified by mail. This is a slight enlargement of the current policy of notification, whereby only those individuals inside the City of Memphis or unincorporated Shelby County are notified.
- A new Sub-Section **9.3.6F** is added that will permit the LUCB, BOA and Landmarks Commission to approve a deferral of a case, if requested by the applicant, in addition to any deferral permitted by the Code. This will allow the applicant to meet with the neighbors and work out any potential issues, but, by limiting the deferral to one, it will eliminate the potentiality of an applicant using the tactic of deferrals to exhaust the opposition through a series of public meetings.

111. **9.5 – Zoning change – Housekeeping**

This chapter deals with rezoning applications. The following changes are proposed to this chapter:

- Clarity is added to Section **9.5.1** for frontage and height maps that were adopted as part of overlay districts. Since these were adopted as text amendment, they are amended through the zoning text amendment process (Chapter 9.4) and not through the rezoning process.
- Sub-Section **9.5.2A** is amended to stipulate that rezonings shall be effective to the centerline of abutting streets or alleys.
- Language is added to Section **9.5.4** that allows for a neighborhood meeting after a submittal for rezoning is filed.
- A sentence is added to Paragraph **9.5.7A(1)** that allows conversions of a rezoning application to a special use permit or planned development application without the necessity to re-start the 35-day minimum review requirement by the Land Use Control Board.

**112. 9.6 – Special use and planned development review**

This chapter is devoted to special use permits (“SUPs”) and planned developments (“PDs”). The following changes are proposed to this chapter:

- (*Housekeeping*) Section **9.6.2** is re-titled and reworded to stipulate that a pre-application conference with OPD staff is mandatory for all SUP and PD applications.
- Section **9.6.3** is amended to reflect the changes made to Sub-Section 9.3.2A; the removal of the mandatory neighborhood meeting for all SUPs and PDs.
- (*Housekeeping*) Minor modifications are proposed for Section **9.6.6**, the hotel-motel waiver process, which will clean up the language and explicitly state that hotel name changes not affiliated with changes in ownership will not require a special use permit or waiver.
- (*Housekeeping*) As is the case with Paragraph 9.5.7A(1) described above, Sub-Section **9.6.7A** is amended to permit conversions of SUPs and PDs to rezonings without requiring a new 35-day review by the Land Use Control Board.
- (*Housekeeping*) Sub-Sections **9.6.8A, B, C and D** are reworded or deleted since this section describes the SUP/PD forwarding process and not the appeal process. Sub-Section **9.6.8C**, which is devoted to appeals, is clarified to explain that parties that are either in attendance and oppose a case during the Land Use Control Board or who wrote a letter of opposition may appeal to the governing bodies.
- A new Sub-Section **9.6.9H** is added that will provide unique approval criteria for cell towers processed as SUPs in keeping with the Telecommunications Act of 1996. Any denial must be based on substantial evidence and may not take into account any environmental or health concerns (*Telespectrum v. Public Service Commission of Kentucky*, 227 F.3d 414 at 424 (Sixth Cir., 2000)).
- (*Housekeeping*) Sub-Section **9.6.10A** is amended to insert the word “landscaping” in the list of items that a SUP may be conditioned upon.
- Sub-Section **9.6.11A** is amended to stipulate that PD outline plans *may* be accompanied by concept plans if the Planning Director determines that the surrounding area necessitates a concept plan. The problem in the past with concept plans is that they have no legal bearing and the applicants are not required to building according to a concept plan that may have been submitted years before.
- (*Housekeeping*) The current practice of approving simultaneous final/outline plans for small PDs is codified in a new Item **9.6.11D(1)(c)**.

- *(Housekeeping)* Paragraph **9.6.11D(2)(a)** is amended to stipulate the present practice of OPD only accepting PD final plans if they substantially conform to an approved outline plan. If not, the outline plan shall be amended.
- *(Housekeeping)* Paragraph **9.6.11D(3)** is re-titled and reworded for better understanding.
- *(Housekeeping)* Sub-Section **9.6.11E** covers changes made to already-approved PDs. The following changes are made to this Sub-Section to clarify this process:
  - A new **introductory paragraph** is inserted explaining the three types of PD revisions: amendments, minor modifications and major modifications.
  - The term “development schedule” is replaced in Paragraph **9.6.11E(1)** with a new “amendment” section. This Paragraph stipulates what kinds of changes rise to the level of amendments: changes to the list of permitted uses and conversions of private streets to public streets. The requirement for a development schedule has been moved to the list of items submitted with a concept plan in Paragraph 9.6.11A(8).
  - Paragraph **9.6.11E(2)** contains the requirements for minor modifications, as opposed to major modifications. Sub-Items **(a)(3)** and **(a)(4)** are deleted since most PDs cannot “add” open space or “decrease density” since the dimensions of the development and parcels within the development are fixed. Changed the “requirements” to be considerations.
  - A new Item **9.6.11E(2)(d)** (see below on why the existing language is proposed to be deleted) is provided that will add a new type of major modification: the Single Lot Setback and Easement Modification. These involve setbacks and landscape easements that were placed on the PD plan during its initial approval, but where the applicant requests to encroach in them or request that they be deleted. Currently, these are processed as Correspondence Items with the Land Use Control Board, which follows the same procedure as a major modification, but they do not have a formal name. This proposal involves giving them a formal name, as well as set out a procedure in Sub-Item **9.6.11E(4)(f)**. That section will stipulate that the PD outline plan or final plan need not be re-recorded for single lot setback and easement modifications.
  - The language referencing required property owners’ signatures in Item **9.6.11E(2)(d)** for minor modifications and Item **9.6.11E(3)(d)** for major modifications are deleted and replaced with a revised Paragraph **9.6.11E(4)(c)**, under “procedures.” That revised paragraph contains language that defers to the homeowners or property owners association as the required signatory. The decision to amend a final our outline plan should be one that is internal to the association with the association’s designee submitting an application.
  - A new Sub-Section **9.6.11F** is added that will added that will explicitly state that restrictive covenants on PD outline and final plans are only to be enforced between private lot owners.
- *(Housekeeping)* Sections **9.6.11** and **9.6.12**, which deal with revisions to approved PDs and SUPs, respectively, are amended to square with one another. Amendments, which require the approval of the governing bodies, are listed first. Major modifications, which require the approval of the Land Use Control Board with appeals to the governing bodies, are listed next. Finally, minor modifications, which only require the approval of the Planning Director, are listed last.
- *(Housekeeping)* Section **9.6.12**, dealing with SUPs, is amended in the same way as Sub-Section 9.6.11E(1), which deals with PDs. Like PDs, there are only three types of revisions to already-approved SUPs: minor modifications (which may be approved by the Planning Director), major modifications (which may be approved by the Land Use Control Board) and

amendments (which require approval by the governing body). An introductory paragraph is provided for this Section to explain these three types of revisions. The language for SUP minor modifications found in Paragraph 9.6.12A(1) is amended to reflect the language in 9.6.11E(3) dealing with minor modifications to PDs.

- *(Housekeeping)* A new Sub-Section 9.6.13G is provided, which resurrects Section 16-52-2 of the old Zoning Code (as numbered in the Memphis municode.com version) which allows for the construction of a building that adheres to an underlying zoning district if a PD has not yet been activated.
- Sub-Section 9.6.14A is amended to provide a procedure for expired PD outline plans. In the past, these were extended after they expired. This new language stipulates that extensions to PD outline plans may be filed after they have expired. In addition, new PD outline plans within the City of Memphis have no expirations and those outside the City of Memphis expire in 10 years. Similarly, 9.6.14B is amended to stipulate that time extensions for SUPs may be made after they have expired and expirations are five years after approval rather than two. Finally 9.6.14C is amended to permit applications for SUPs that have been discontinued for more than 30 months. This 30-month time frame is an expansion of the existing 24-month time frame to reflect the allowance of nonconforming uses to be discontinued for 30 months without losing their grandfathered status. This is in keeping with amendments made in Article 10 and the Tennessee Code Annotated on the subject.
- *(Housekeeping)* Section 9.6.16 is clarified by adding the appropriate bodies that grant variances and SUPs.
- *(Housekeeping)* A minor change is proposed for Section 9.6.17 in which the word “motions” is replaced with “votes” to clarify that decisions on companion cases must be voted on separately.
- *(Housekeeping)* Section 9.6.18 contains the procedure for the identification of a significant neighborhood structure (“SNS”), or those structures that were built for non-residential uses and that the Use Table of Chapter 2.5 allow to house a variety of non-residential uses. The following changes are proposed to this section:
  - The wording “of the structure” is added to Paragraph 9.6.18(B)(6) to clarify the important features of a SNS that justify its preservation and reuse.
  - A reference to Sub-Section 9.6.4C is added to Sub-Section 9.6.18C. This takes the reader to the application process for SUPs.
  - If an SNS building is an existing nonconforming structure, like an old church, the governing body (and not the Board of Adjustment) has the authority to approve variances (setbacks, height, lot size, etc) for the existing structure. Language that stipulates this power shall not be used for new structures is added to Sub-Section 9.6.18(F).

### 113. 9.7 – Subdivisions

Chapter 9.7 concerns the subdivision process. The following modifications are proposed:

- Sub-Section 9.7.2G is amended to permit the recording of the subdivision plat prior to MLGW, or any other utility company providing evidence that utilities have been installed but adding a note to the plat that does not permit the issuance of a building permit until evidence has been provided. In the past, banks and other financiers have required the recording of a plat to demonstrate the completion of the developers’ obligation to construct the basic elements of a subdivision, such as streets, etc., but not the utilities. This allows the developer to satisfy certain obligations towards its



financier while working with MLGW, and/or any other utility company, to design and, if applicable, install the necessary utilities.

- In Sub-Sections **9.7.3A(3) and B(3)**, remove the requirement that lots of record should be certified by a professional engineer. This requirement proves to be onerous on many property owners. Licensed surveyors are capable of performing this task.
- (*Housekeeping*) New language is added Sub-Section **9.7.3C** regarding lot consolidation plats and lot line alterations between lots, so long as the threshold requirements of the zoning district are maintained. The same language is added to Sub-Section 9.7.3E for “grandfathered” lots. This follows current practice. Also, the term “two dwelling” is corrected to “two-family dwelling.”
- (*Housekeeping*) The exemption of lots created by “judicial decree” in Sub-Section **9.7.3D** is removed and a new Sub-Section **9.7.3H** is added to specifically state that action by judicial decree shall not shirk the subdivision regulation process. The Tennessee Code Annotated definition of a subdivision, which applies elsewhere in the state, gives no caveat for judicial decree, so it should not be permitted in Memphis or Shelby County, either. If a lot is divided among two or more parties by judicial decree, then they shall own shares of that lot until they subdivide it under the regulations of the UDC.
- (*Housekeeping*) Sub-Section **9.7.3E** deals with “grandfathered” lots, or lots that were created prior to the adoption of the more recent Subdivision Regulations in 1989. As mentioned above with the discussion on Sub-Section 9.7.3C, language is added that will explicitly allow for lot line alterations, so long as the bare minimum thresholds of the zoning districts are maintained.
- (*Housekeeping*) A new Sub-Section **9.7.3I** is added that will permit lot line alterations on platted lots, in keeping with this allowance on unplatted lots (see Sub-Sections 9.7.3C and 9.7.3E).
- (*Housekeeping*) The minimum number of lots stipulated in **9.7.4A(1)(a)** is reduced to one lot. In the past, property owners who sought to create a legal lot of record were forced to create a small second lot since subdivisions were to have a minimum of two lots created. Knoxville permits single-lot subdivisions, which alleviates the need of a property owner to create what is essentially a sham second lot (or common space) in order to make his or her lot a legal lot of record. Also, the new definition of “subdivision” Section 12.3.1 stipulates that single-lot subdivisions are permitted.
- Paragraph **9.7.4A(1)(b)**, which states that any public improvement or dedication requires a major subdivision, is deleted. The Planning Director, as Secretary of the Land Use Control Board, is authorized to accept public dedication of streets and alleys through the administrative site plan review process (Priv. Acts 1921, ch. 162, Section 8). A new Sub-Section **9.7.4C** is provided to this effect. A public contract and final plat may nevertheless be required, both requiring governing body action, pursuant to Paragraph 9.7.8D(1).
- (*Housekeeping*) A minor amendment is made to Item **9.7.4A(1)(e)** which will revise the cross reference; Building Envelope Standards are found in Article 3 and not Chapter 2.5.
- (*Housekeeping*) The limitation of only one permitted extension to minor preliminary subdivision plans found in Sub-Section **9.7.6F** is removed. Paragraph 9.7.7I(4), which deals with major preliminary subdivision plans, does not contain a limitation of extensions.
- Paragraph **9.7.6G(7)** is amended to state that only the dedication of those easements that require City or County maintenance should require LUCB or City Council or County Board of Commissioner approval. In other words, a pedestrian easement that is granted to the public, but does not involve any maintenance costs to the City (since sidewalks are maintained by abutting property owners and not the City) should not in of itself prevent a subdivision from being considered minor.

- Sub-Sections **9.7.6G** & **9.7.7H** are amended to add a provision to the approval criteria for minor (9.7.6G) and major (9.7.7H) subdivisions that would allow the Planning Director (for minor subdivisions) and the LUCB (for major subdivision) to look at general density and character of the surrounding area when making their determinations for approval.
- (*Housekeeping*) A new Sub-Section **9.7.6H** is proposed that will spell out the appeals process for minor subdivisions.
- (*Housekeeping*) Sub-Section **9.7.7F** is amended to provide direction to the Land Use Control Board (LUCB) in their granting of waivers. Under the old Code, this was not an issue since the Subdivision Regulations and the Zoning Code were two different documents (with the LUCB able to granted waivers on the former but not the latter). With the Unified Development Code, these two documents are one. The proposed amendment will permit deviations from those provisions found in Article 5 to be eligible for waivers through the subdivision review process. The amendments found in this zoning text amendment essentially place all of the old subdivision regulations in Article 5.
- (*Housekeeping*) Paragraph **9.7.7I(3)** is reworded to clarify that the Land Use Control Board may condition a subdivision's approval to multiple phases.
- (*Housekeeping*) A new Sub-Section **9.7.7J** is provided that summarizes the appeals process for major preliminary subdivision plans. Appeals shall be filed no more than 14 days after the Land Use Control Board decision.
- Paragraphs **9.7.8C(4)** and **9.7.8D(1)** are amended to only require those final plats that involve construction of public improvements to go to the governing bodies. The Planning Director, as Secretary of the Land Use Control Board, is authorized to accept public dedication of streets and alleys through the administrative site plan review process (Priv. Acts 1921, ch. 162, Section 8).
- (*Housekeeping*) A new Paragraph **9.7.8C(5)** has been provided to address appeals of final plats. Essentially, the same process shall be followed that has been proposed for appeals of minor and major preliminary plans.
- The 14-day turnaround found in Sub-Section **9.7.8D(2)** between OPD issuing its Memorandum of Conformance for subdivisions and Engineering forwarding to legislative bodies does not take into account 1) fees being paid to Engineering for their review, 2) submittal of construction plans, 3) getting those construction plans approved by Engineering and any other appropriate body (TDEC, MLGW, OCCE, etc.) 4) all bonds being posted for public improvements, 5) the standard improvement contract being written, 6) the developer executing the contract and 7) Council or County Board of Commissioner staff approving contract once its been placed on their agenda. The proposed amendment to this section will address these potential delays.
- (*Housekeeping*) A new Paragraph **9.7.9A(3)(d)** is proposed that will require the proposed addition of entrance gates to a subdivision to be processed as a plat re-recording. This will 1) place the world on notice that the subject subdivision is gated, and 2) notify the various City and County agencies such as Fire that the subdivision is proposed to be gated. In addition, "setbacks" are added to the list of items that may be reflected with the re-recording of a plat in Paragraph 9.7.9A(3)(c).
- (*Housekeeping*) A new Sub-Item **9.7.9A(4)(b)(6)** inserts the same language required for ownership signatures on a plat as has been proposed for PDs (Item 9.6.11E(4)(c)).
- A new Sub-Item **9.7.9A(4)(b)(7)** is proposed that will stipulate that single lot setback and easement modifications do not require the re-recording of the subdivision plat. This is the same language proposed for 9.6.11E(4)(f) for PDs. A new sentence is provided at the end of Sub-Section

**9.7.9B** that will stipulate that single lot setback and easement modifications will be considered major modifications necessitating the approval of the Land Use Control Board with appeals to the legislative bodies. This is the same language proposed for Item 9.6.11E(2)(d).

- *(Housekeeping)* A new Sub-Section **9.7.9C** is proposed that will add an appeals process for modifications made to minor or major preliminary plans or final plats.
- *(Housekeeping)* A new Section **9.7.10** is added that will explicitly state that restrictive covenants on subdivision plats are only to be enforced between private lot owners.

**114. 9.8 – Right-of-way vacation – Housekeeping**

Chapter 9.8 deals with the various types of right-of-way vacations, including street closures. The following modifications are proposed to this Chapter:

- The **opening paragraph** to Chapter 9.8 is completely replaced with an explanation that there are three basic types of right-of-way (ROW) vacations: 1) conversions of public streets to private streets, 2) physical closures of streets and 3) abandonment of “paper streets,” or streets that only exist on paper. Conversions are detailed in Section 5.2.18; they do not need 100% abutter approval so long as there is an established HOA. Physical street closures are physical closures of existing, improved streets, either its entirety or just its throat at an intersecting street; again, they do not need 100% abutter approval. This was part of the old Subdivision Regulations and recently confirmed by the Tennessee Court of Appeals (*Steppach v. Thomas*, 2011 WL 683932). Abandonments often require no physical changes, except sometimes curb, gutter and sidewalk is required to replace the apron at the intersection of the paper street and the intersecting street.
- The old Sub-Section 9.8.2A is retained as a new opening paragraph to Section **9.8.2**, but new Sub-Sections **A, B, C, D, E, and F** are added from the old Subdivision Regulations. The old Sub-Section 9.8.2B is now Sub-Section **G**.
- A minor clarification is provided in Sub-Section **9.8.3B** that stipulates that the Planning Director shall issue a report to the LUCB with his or her recommendation.
- A second sentence is added to Sub-Section **9.8.4A** which requires mailed notification for conversions and physical closures to all property owners within 300 feet of the street or alley being closed. This was Section 15-64-3(C) of the old Subdivision Regulations. If a road is being converted (and probably gated) to a private street or physically closed in any other way, the 300-foot mailing is necessary as it may affect this group of property owners. Abandonments, which involve the closure of paper streets, will only require adjacent property owner notification.
- A new Sub-Section **9.8.5C** is added that stipulates that improvements associated with ROW vacations must be completed in three years after Council (or a longer period if approved by the Council) approval or the approval expires. Extensions for ROW vacation approvals must be processed through the LUCB as new applications if time for making improvements expires; if time has not expired, City Council may make extensions.
- A new Section **9.8.6** is added for the procedure on time extensions prior to expirations.

**115. 9.9 – Right-of-way dedications**

This chapter deals with dedications of public right-of-way. The following modifications are proposed:

- Section **9.9.1** is amended to state which items are subject to this Chapter.
- *(Housekeeping)* Sub-Section **9.9.4B** is clarified to add that the report from the Planning Director to the Land Use Control Board will contain his or her a recommendation.

- (*Housekeeping*) Sub-Section **9.9.5B** is clarified to state that the Land Use Control Board may recommend approval, approval with conditions or rejection to the governing bodies.

**116. 9.10.2 – Street name change – Housekeeping**

This section is amended to clarify that the Planning Director's report to the Land Use Control Board shall contain his or her recommendation. Also a new Section **9.10.2C** is provided that permits administrative approval of a street name change if there is only one party that abuts the street. This typically occurs in subdivisions that have not yet been completed but already recorded.

**117. 9.11 – Plat of record revocations – Housekeeping**

A flowchart on the process of revoking a plat is included in this Chapter to be consistent with other chapters in Article 9.

**118. 9.12 – Administrative site plan review (ASPR) – Housekeeping**

This chapter is devoted to ASPR, or the process by which staff reviews those items that do not require review by a review body such as the Land Use Control Board, the Board of Adjustment or the governing bodies. The following amendments are proposed to this chapter:

- A new phrase is added to Sub-Section **9.12.1A**, whereby only those site plans that meet the threshold of 4.1 shall be processed through ASPR.
- A new Sub-Section **9.12.1D** is added to direct readers to the next chapter, 9.13, for ASPR in the Special Purpose and Overlay Districts.
- Section **9.12.3** is amended to replace the Planning Director (as administrator of OPD) with the Building Official (as administrator of OCCE) since ASPR is processed at the Office of Construction Code Enforcement (as opposed to Special Purpose and Overlay District ASPR, which is processed by the Office of Planning and Development). This aligns with a proposed amendment to the table in Sub-Section 9.3.3B. Also, the City or County Engineer shall only be forwarded sites requiring ASPR in certain situations where ROW is being dedicated or if a minimum number of acreage is involved to guarantee proper detention. The change from Planning Director to Building Official is also reflected in the **flowchart** in this Chapter.
- Sub-Section **9.12.4A** is amended to permit the Planning Director to accept right-of-way dedications, per Priv. Acts 1921, ch. 162, Sec. 8).

**119. 9.13 – Special district ASPR**

This chapter is very similar to Chapter 9.12, in that it is devoted to site plan review that is performed by staff for projects that are not required to go before appointed or elected officials. The following amendments are proposed to Chapter 9.13, which deals purely with the special purpose and frontage overlay districts:

- (*Housekeeping*) Section **9.13.1** is amended to insert overlay districts not included, but also include any future frontage overlay district or special purpose district. This Chapter will only apply to developments that meet the threshold requirements of the applicability sections of the special purpose and frontage overlay districts (Sections 7.1F and 8.2.1). For development that does not meet those thresholds but instead the lower thresholds of 4.1, Chapter 9.12 shall apply to that development.
- The old Section **9.13.4**, which deals with notification requirements for ASPR, is proposed to be deleted since notifying surrounding property owners of a proposed by-right use creates potential due process problem. There is no process for surrounding property owners to appeal staff

decisions in their administration of the UDC, nor should there be as these property owners have no standing on such minor design items.

- Sub-Section **9.13.4C** is amended by adding the same thresholds for City or County Engineer that are being added to ASPR outside of the special purpose districts (see discussion on 9.12.3 above).
- Section **9.13.6** is amended to match the appeals process of special district ASPR to that of ASPR outside of the special and overlay districts. Although the LUCB, as the de facto Design Review Commission in Memphis and Shelby County, will hear variances from the design requirements of the special districts, it should be the Board of Adjustment to hear appeals from administrative decisions. This matches with changes made to the tables in Section 9.2.2 and Sub-Section 9.3.4A.
- (*Housekeeping*) The same amendment that was made to Sub-Section 9.12.4A dealing with the Planning Director accepting right-of-way is also proposed for Sub-Section **9.13.7A**, per Priv. Acts 1921, ch. 162, Sec. 8).

**120. 9.14 – Special exception review**

Special exceptions are one step above ASPR; they are deviations granted by the Land Use Control Board and appealable to the governing bodies. The following amendments are proposed for Chapter 9.14:

- (*Housekeeping*) Sub-Section **9.14.1D** is removed since exceptions to streetscape plates will be treated as administrative deviations (see Sub-Section 4.3.4A).
- Sub-Sections **9.14.1H and I** are added to the list of acceptable special exceptions. **H** directs the reader to the block requirements found in Section 5.2.5; **I** permits any other special exceptions that are delineated throughout the Code.
- (*Housekeeping*) As with similar other sections, Sub-Section **9.14.3C** is amended to clarify that the report from the Planning Director to the Land Use Control Board shall include his or her recommendation.
- (*Housekeeping*) A minor clarification is made to Sub-Section **9.14.8A** that stipulates this section applies to those special exceptions that have been denied.

**121. 9.15.1 – Temporary use review – Housekeeping**

A cross reference is provided in this section to the temporary use standards (Chapter 2.8).

**122. 9.16 – Time Extensions**

Since “Tree Removal” has its own Chapter in the Code (Chapter 6.1), the former 9.16, Tree Removal, has been renamed “Time Extensions” to provide the appropriate findings of fact necessary for the approval of a time extension.

**123. 9.18 – Common signage review/demolition review**

Common signage plans are proposed to be deleted (and all references to them; See Sub-Sections 9.3.3 A, 9.3.3B and 9.17.1A; Section 9.17.5 and Section 12.3.1. The common signage plan section is replaced with a brief discussion on the demolition permit review. A sentence is provided that states that demolitions permits are issued by the Memphis and Shelby County Office of Construction Code Enforcement and they are subject to Chapter 6.1, Tree Removal

**124. 9.21 – Administrative deviations**

This chapter deals with administrative deviations, which are minor deviations that the Planning Director is authorized to make. The following amendments are proposed:

- Section **9.21.2** is updated to permit greater flexibility in the granting of administrative deviations in the overlay districts. Most of the proposed percentages match those that were approved with the most recent overlay district, the Midtown Overlay.
- (*Housekeeping*) A line is added at the end of Paragraph **9.21.2A(1)** that will resurrect the 10% minimum setback encroachment that was part of the old Zoning Code but inadvertently deleted when the UDC was adopted.
- A new Paragraph **9.21.2A(2)** is added that will permit the Planning Director to approve administrative deviations for context sensitive setback encroachments. A good candidate for such a context sensitive setback encroachment was on the October 26, 2011, Board of Adjustment agenda in which the applicant on Browning Avenue was requesting a variance for a side street setback that was common throughout her neighborhood.
- (*Housekeeping*) A new Paragraph **9.21.2A(5)** is added that will allow administrative deviations for non-conforming structures with 0-foot setbacks. The new minimum setback throughout the UDC is 2 feet, but this does not address the many structures built in the city with 0-foot setbacks.
- (*Housekeeping*) A new Paragraph **9.21.2D(3)** is provided that encompasses all other permitted deviations that are found throughout the UDC.
- (*Housekeeping*) A new Section **9.21.5** is added for appeals of a rejected administrative deviation. This language mirrors rejects for site plan review: appeals are filed with the Board of Adjustment.

#### 125. 9.22 – Variance

This chapter is devoted to the power of the Board of Adjustment to grant variances. This power is vested in the Board of Adjustment based on the various pieces of zoning enabling legislation authorized by the Tennessee General Assembly in 1921, 1925 and 1955. The following changes are proposed to Chapter 9.22:

- (*Housekeeping*) As was the case with other reports writing by the Planning Director and OPD staff, Section **9.22.4** is amended to clarify that the report shall contain a recommendation.
- Section **9.22.6** is divided into two sub-sections, A and B, which will set out separate thresholds for **A**: Bulk and Other Variances and **B**: Use Variances. For the former, the existing language is removed and the language from the private act is inserted. For the latter, an additional finding of fact is provided. In addition, use variances will not be permitted for billboards. This is consistent with the Tennessee Code Annotated, which requires billboards to be on properly zoned land. There is also a prohibition in the new Paragraph **9.22.6B(3)** from any use variance being granted for a use that would otherwise be permitted by Special Use Permit. There is also a prohibition in the new Paragraph **9.22.6B(4)** from any use variance being granted within 18 months of the Land Use Control Board hearing a request to rezone or approve a PD on the property. This will prevent someone from forum shopping and the Board of Adjustment approving a rezoning or planned development that was rejected by either the Land Use Control Board or governing body. Finally, a new Paragraph **9.6.22B(5)** stipulates that time extensions and amendments to use variances approved by the governing bodies shall be processed by the governing bodies pursuant to the SUP process of Chapter 9.6.

#### 126. 9.23 – Appeals

This chapter deals with the various appeals processes found in the Code. The following changes are proposed:

- (*Housekeeping*) To match the 14-day turnaround requirement for appeals of the LUCB found elsewhere in the code, Sub-Section **9.23.2C** is amended to add this requirement, as well.

- Sub-Section **9.23.3A** is amended to comport with the state enabling legislation through which the Memphis Landmarks Commission was created (see TCA 13-7-409): appeals shall be processed in the same manner as appeals of the Board of Adjustment. In other words, appeals of the Landmarks Commission are processed to the courts via a writ of statutory certiorari.
- (*Housekeeping*) In Section **9.23.4**, new language is proposed that stipulates that the Board of Adjustment shall make the same findings of fact when passing upon appeals as are required for variances. A cross-reference is provided to Section 9.22.6.

**127. 10 – Nonconformities**

This Article deals with those uses and structures that predate the passage of the zoning code and are “grandfathered” from its regulations. The following modifications are proposed for Article 10:

- Section **10.2.5** is amended to be in line with the enabling legislation that granted Memphis and Shelby County the authority to zone private properties (the 1921 and 1931 Private Acts). Those acts permitted nonconforming uses to change to other nonconforming uses of higher classifications. The proposed language of 10.2.5 matches the language found in the Nashville Zoning Code.
- Section **10.2.6** is amended to permit nonconforming uses to be abandoned for a period of 30 months, as apposed to 365 days, before they lose their grandfathered status. This is in line with the Tennessee Code Annotated provisions on the subject (see TCA 13-7-208 (g)). This change is also made to Paragraph **4.9.15F(3)**, which deals with the discontinuance of nonconforming on-premise signs.
- (*Housekeeping*) New Sub-Sections **10.2.7C & 10.3.3C** have been added that stipulates that, for lots or developments featuring multiple principal buildings, the 75% threshold is met once 75% of the total number of buildings on the lot or development have been destroyed.
- (*Housekeeping*) A new Sub-Section 10.5.2C is added that stipulates that, while an unplatted lot may be grandfathered due to its being created by warranty deed prior to March 1, 1989, it nevertheless needs to meet the minimum lot size requirements found in Section **3.6.1** if it has no public water or sewer.
- (*Housekeeping*) Chapter **10.6** is completely deleted since it is covered verbatim in Section 4.10.14 (the Sign Code). A cross reference to that section is substituted.
- (*Housekeeping*) A new Chapter **10.8** is proposed that will exempt pre-existing apartments and nonresidential structures in the residential zoning districts. Sections 3.7.2 and 3.7.3 stipulate that these buildings must be within a certain proximity to the street and be a certain width in relation to its lot, which has created nonconforming structures out of nearly every schools, place of worship and apartment building in the City. This chapter also exempts pre-existing structures that are along streets that have been designated with certain frontage requirements in the overlay and special purpose districts of Articles 7 and 8.
- (*Housekeeping*) A new Chapter **10.9** is proposed that will exempt pre-existing developments from the required percentage of housing types found in the tables of Section 3.7.2.
- **10.12:** (new section) “Exception for city and county properties.” This section specifically exempts all City or County properties from being considered nonconformities; they may be expanded, enlarged and rebuilt without creating a conflict with the Code.

**128. 12.2 – Abbreviations – Housekeeping**

A variety of terms were added to the list of abbreviations, such as FAA, MOC, ROW and AASHTO.

**129. 12.3.1 – Definitions**

The following terms are added to the list of definitions: abutting; academy, special training (this term is used in the Chapters 2.5 and 2.9, but no definition is provided); access controlled (now that lots must have 50 feet of non-access controlled frontage); accessory structure; adult novelty store; adding “honey” and “nuts” to definition of agricultural products; aquaculture; assisted living facility; attached structure; auto body shop and repair; awning; banquet hall; bars, taverns and nightclubs; bed and breakfast; berm; block; borrow pit; brew pub; brewery; building frontage, required; building elevation; Building Official; building separation; canopy; carport; cemetery/graveyard; centerline; church; clinic; co-location; condominium; collector; delete connector; contiguous; crematorium; convenience store; distillery; drive-in, drive-through and drive-up facilities; dwelling unit; commercial electric vehicle charging station; electric vehicle charging station; façade; final plan; final plat; add a second part of definition of “frontage” to satisfy legal lot requirements; frontage wall; funeral directing, funeral establishments, etc.; garage; garden; redefine gas station; groundcover; group instruction; heavy truck; historic structure; hydroponic farm; independent living facility; infill or redevelopment; landscaping; landfill, construction debris and redefine existing definition of landfill as landfill, sanitary; low pressure sodium; microbrewery; microdistillery; mixed use development; modular home; monopole; reference the correct section in definition of neighborhood garden; nursery; nursery school, preschool; off-site parking for places of worship; parking lot; place of worship; redefine Planning Director; porch, unenclosed; redefine “premises”; principal structure; principal use; property (or home) owners association; recreational vehicle; redevelopment; residential, single-family; residential, multi-family; right-of-way; salvage or junk yard; service station by cross-referencing “gas station;” single family detached; single family attached; slickstick monopole; solar farm; solar energy system; special use; stealth design; street closure; subdivision (use definition from TCA 13-3-401(4)(B), but use four acre threshold rather than five acre threshold; “substantial evidence” for the purpose of CMCS towers; tandem parking; temporary; unenclosed porch; tractors and related agricultural machinery; use-by-right; use variance; wind energy system; wind energy system, small; wind energy system, total height; working days; yard, front;; yard, rear; yard, required; yard, side and zoning districts.

**130. 12.3.4 – Sign definitions – Housekeeping**

This new section returns the sign definitions that were inadvertently omitted with the adoption of the UDC. Also, the term “video technology” is inserted since it and “automatic changeable copy” signs are used interchangeably in the Code. Video may be more intense than digital automatic changeable copy; likewise, digital automatic changeable copy may be more intense than nondigital automatic changeable copy.

*Note: The following items are not part of this Zoning Text Amendment; rather they are amendments to the Memphis Code of Ordinances that shall be processed as companion items to the Memphis City Council with this ZTA.*

**131. City Ord [Municode] 7-8-11:** Change Paragraphs B and C to replace old zoning districts with new districts OR uses OR new districts; Also, considering adding microbreweries and microbreweries with tasking rooms as exempt from distance requirements?

**132. City Ord [Municode] 7-4-5:** (for liquor stores) update list of zoning districts



133. **City Ord [Municode] 12-16-2** - Method of naming and renaming streets. – may conflict w UDC 9.10 & 5.5  
“When the city shall acquire any street or other thoroughfare by purchase or dedication, the city engineer shall file with the director of public works his or her recommendation of a suitable name for such street or thoroughfare. It shall be the duty of the city council to select a suitable name for such new street.” (This conflicts with the UDC I believe which only requires a resolution be approved for a street name change.)
134. **City Ord [Municode] 12-28:** needs to be amended to delete the loop street and cul-de-sac sidewalk construction exemption. The UDC needs to be amended to refer back to the City and County Sidewalk ordinances regarding placement and construction.
135. **City Ord [Municode] 12-60:** Residential Corridors of the City Code needs to be repealed. These provisions were moved to the UDC.
136. **City Ord [Municode] 14-24:** (Landmarks) should probably be rescinded since it is covered in the UDC
137. **County Ordinance 38-44(a):** This section needs to reference the UDC rather than have conflicting regulations on where sidewalks are required.
138. **County Ordinance 26-319:** This section on Residential Corridors can be completely deleted since they are covered in (new) Chapter 8.3 of the UDC.