

RESOLUTION AND ORDINANCE

No. 122

A JOINT ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MEMPHIS AND RESOLUTION BY THE QUARTERLY COUNTY COURT OF SHELBY COUNTY, TENNESSEE, TO CREATE THE MEMPHIS AND SHELBY COUNTY BOARD OF ADJUSTMENT. PRESCRIBE ITS POWERS AND DUTIES. PROVIDE FOR MEMBERSHIP THEREON. PROVIDE FOR THE ELECTION OF A CHAIRMAN AND VICE - CHAIRMAN. PROVIDE FOR A SECRETARY AND STAFF. AUTHORIZE SAID BOARD TO ESTABLISH RULES FOR THE CONDUCT OF ITS AFFAIRS; ESTABLISH UNIFORM FEES FOR SERVICES PERFORMED BY SAID BOARD; PROVIDE FOR THE DISTRIBUTION OF FUNDS ACCRUING TO SAID BOARD AND FOR SHARING THE EXPENSE OF OPERATION OF SAID BOARD BY SAID GOVERNMENTAL ENTITIES AND PROVIDE FOR THE TERMINATION OF THE JOINT OPERATION OR ACTIVITY CREATED HEREBY.

WHEREAS, authority exists for the Quarterly County Court of Shelby County and the City Council of the City of Memphis as the chief legislative body of a municipality lying within the boundaries of said County to enter into such agreements, compacts or contractual relations as may be desirable or necessary for the purpose of permitting said County and said municipality to conduct, operate, or maintain either jointly or by one agency for the other, desirable and necessary services or functions, under such terms as may be agreed upon by the two agencies as provided by Chapter 222 of the Public Acts of Tennessee for 1959, TCA-6113, and

WHEREAS, additional authority is granted to said City to combine its governmental or corporate activities with those of Shelby County by Chapter 413 of the Private Acts of 1953 and specifically said City and County are authorized to combine their City and County Planning Commissions Boards 352 and 353 of the Private Acts of Tennessee for 1953 and their Planning Commissions have in fact been so combined, and

WHEREAS, the Quarterly County Court of Shelby County, Tennessee and the City Council of the City of Memphis, do find as a matter of legislative determination that it is their mutual desire and to their mutual advantage to combine and join the activities of the Board of Adjustment of the City of Memphis and the Shelby County Board of Adjustment, respectively,

NOW, THEREFORE, SECTION 1. BE IT RESOLVED BY THE QUARTERLY COUNTY COURT OF SHELBY COUNTY, TENNESSEE AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEMPHIS that the following sections shall become binding laws, resolutions and ordinances affecting the residents of said government agencies and that as to the City of Memphis, said sections be and are amendatory of the Code of Ordinances of the City of Memphis, as amended, and numbers as hereinafter set out.

Section 28-28.1 Joint Board of Adjustment. There is hereby created the Memphis and Shelby County Board of Adjustment. For budgetary purposes of the City of Memphis, same is assigned to the Executive Office. For budgetary purposes of the Quarterly County Court, same is assigned to the Office of the Chairman.

Section 28-28.2 Membership of Board. Term; Qualification. The Board of Adjustment shall be composed of a total of eight (8) members, as follows:

(a) The Mayor of the City of Memphis shall appoint, with the approval of a majority of the City Council, four (4) members, none of whom may be an elected official, whose terms shall be for three (3) years, expiring within the calendar year; provided, that in making the first appointments, two (2) shall be designated to serve one (1) year, one (1) shall be for two (2) years, and one (1) for three (3) years.

(b) The Quarterly County Court of Shelby County, solely upon the nomination of the Chairman thereof, shall appoint four (4) members, none of whom may be an elected official, whose terms shall be for three (3) years, expiring within the calendar year; provided, in making the first appointments, two (2) shall be designated to serve for one (1) year, one (1) for two (2) years, and one (1) for three (3) years.

(c) All members shall have been residents of Shelby County (either within or without the City of Memphis) for a period of at least one (1) year prior to

their appointment.

(d) All members shall serve without pay but shall be entitled to reimbursement for any actual expense incurred in connection with such membership provided same was authorized or ratified by said Board and is within its budget.

(e) Appointees of the Mayor shall be subject to removal by the Mayor with the concurrence of a majority of the Council. Appointees of the Quarterly County Court shall serve at the will and pleasure of a majority of that body.

(f) The term of all members shall extend until their successors are qualified. Vacancies; Section 28-28.3

(a) Permanent vacancies created by any cause shall be filled for the unexpired term in the same manner and by the same authority as made the original appointment.

(b) Anticipated or temporary vacancies may be filled on behalf of an appointee by the Quarterly County Court by the Chairman thereof and as to an appointee by the City Council by the Mayor from lists of members named as above and approved by the respective legislative bodies. Such appointments shall be in writing specifying the duration thereof which shall not be longer than thirty (30) days and shall be filed with the Secretary of the Board of Adjustment. Any such appointee so designated shall have all the powers, rights and authority and duty imposed upon a regular appointee.

Section 28-28.4 Chairman; Vice-Chairman; Term; Duties; Vacancies, How filled. The Mayor of the City of Memphis, with the concurrence of a majority of the City Council, shall designate the first Chairman from among its appointees, who shall serve for one year, expiring with the calendar year, and until his successor is appointed and qualified.

The Quarterly County Court, solely upon the nomination of the chairman, shall elect the first appointees, who shall serve for one year, expiring with the calendar year and until his successor is elected and qualified.

The second year the chairman shall be selected by the Quarterly County Court, as above, and the vice-chairman by the Mayor with the approval of a majority of the City Council, as above. Thereafter, in even years the chairman shall be selected by the Mayor and City Council, as above, and the vice-chairman by the Quarterly County Court, as above, and on odd years the chairman shall be selected by the Quarterly County Court, as above, and the vice-chairman by the Mayor and City Council, as above.

Permanent or temporary vacancies in the offices of chairman or vice-chairman created by any cause shall be filled in the same manner and by the same authority as hereinabove provided with respect for vacancies for other members.

The Chairman shall be the Chief Executive Officer of said Board, preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization, except as may be restricted herein. The vice-chairman shall perform the duties of the chairman in the latter's absence or disability.

Section 28-28.5 Qualifying by Members of Board; Oaths. The said members of board shall hold the Constitution of the United States and of the State of Tennessee and faithfully discharge the duties of his office.

Section 28-28.6 Powers and Duties. The Board shall exercise such powers and duties as may be delegated by law to it; as to matters lying within the City limits of the City of Memphis under the laws applicable to the Board of Adjustment authorized to act in said city, and as to matters outside the city limits of any incorporated city in said county, then under the laws applicable to the Board of Adjustment having authority within said county and outside said city limits.

Section 28-28.7 Meetings. The Board shall provide in its rules for its meetings; provided, however, that special meetings shall be called only by the joint action of the chairman and vice-chairman or in the absence or disability of either, at the instance of the active officer and a member appointed by the legislative agency other than that which appointed the active officer.

Section 28-28.8 Quorum. Five (5) members shall constitute a quorum. The votes of the (5) members shall be required for the passage of any affirmative action by the Board.

Section 28-28.9 Budget; Approval. Said Board shall annually submit a budget of its contemplated operation for each year to the Mayor and Chairman of the Quarterly County Court who, if they approve, shall forward same to the legislative bodies concerned for approval and appropriation, each of said agencies to appropriate one-half (1/2) of the approved amount.

Section 28-28.10 Secretary; Term; Salary. Within the limitations of its approved budget, the Board at its first meeting hereunder and thereafter at its

first meeting in January of each year, shall elect a suitable person to be Secretary of said Board of Adjustment and fix his salary, which shall be subject to approval of the legislative bodies and within the approved budget. Section 28-28.11 Duties of Secretary. The Secretary of said Board shall devote his full time to his position and shall carry out all duties assigned to him by the Board. He shall take and subscribe to the same oath as Board Members and provide bond in the penal sum of Five Thousand (\$5,000.00) Dollars, payable to the City of Memphis and County of Shelby, conditioned on the faithful performance of his assigned duties. The cost of such bond shall be paid out of the funds of the Board.

Section 28-28.12 Assistants. The Secretary shall employ such assistants as he may deem advisable within his budgetary limitations, with the approval of the Board. Provided, nothing herein shall waive any provision of applicable civil service or retirement laws.

Section 28-28.13 Jurisdiction; Previous Boards; Pending Matters. There is hereby vested in the Memphis and Shelby County Board of Adjustment all the powers heretofore vested in the respective Boards of Adjustment of the City of Memphis and the Shelby County Board of Adjustment and any other Board of Adjustment having authority throughout the unincorporated portions of Shelby County, except that under no circumstances shall the Memphis and Shelby County Board of Adjustment have the power or authority to permit any use of the territory of any use for any building or premises specifically listed in the use regulations applicable to the zoning district covering said building or premises as shown on the zoning district map.

All matters filed with the Board herein after the effective date hereof shall be disposed of by the Board created herein. All cases pending before the prior Boards shall be disposed of by those Boards provided that cases filed with prior Boards but not acted on may be transferred for hearing and disposition by the new Board created herein.

Section 28-28.14 Rules. Said Board is authorized to promulgate rules for the orderly administration of its affairs not in conflict herewith.

Section 28-28.15 Fees; Distribution. Said Board is authorized to charge a uniform schedule of fees which shall not exceed the following:

Table with 2 columns: Type of Application, Fee Schedule. Includes Single Family (including individual mobile homes) at \$25.00, Two Family at 35.00, Apartments, Townhouses and Mobile Home Parks: Minimum for first 20 units at 50.00, Each unit above 20 units at 1.00-Maximum at 200.00, Commercial, Industrial or Institutional at 100.00.

Such other fees as may hereafter be approved by the legislative bodies of said County and City. All fees accruing hereunder shall be promptly deposited with the Comptroller of the City of Memphis who shall cause same to be credited to the account of said Board and one-half (1/2) shall be further credited to the General Fund Revenue of said City, and one-half (1/2) credited to the account of the Chairman of the Quarterly County Court of Shelby County and remittance made quarterly.

SECTION 2. BE IT FURTHER RESOLVED BY THE QUARTERLY COUNTY COURT FOR AND ON BEHALF OF SHELBY COUNTY AND THE CITY COUNCIL OF THE CITY OF MEMPHIS ON BEHALF OF THE CITY OF MEMPHIS that said Resolution and Ordinance take effect on July 1, 1970, provided that prior thereto it shall have been passed by the Council, signed by the Chairman of the Council, verified and delivered to the office of the Mayor in writing by the Comptroller and become effective on July 1, 1970, and thereafter shall be treated as in full force and effect by virtue of the passage thereof by the Quarterly County Court of Shelby County and the City Council of the City of Memphis the public welfare requiring same.

MRS. WELLS AWSUMBI, Chairman of the City Council of Memphis, Tennessee.

MRS. CHARLES W. BAKER, Chairman of the Memphis and Shelby County Court of Shelby County, Tennessee.

Attest: DAVID R. HOPPER, City Comptroller.

CHARLES W. BAKER, Chairman Quarterly County Court of Shelby County, Tennessee.

ROBERT M. GRAY, Clerk Quarterly County Court, May 25, 1970-50c.