

ARTICLE I

PURPOSE AND AUTHORITY

1-1 SHORT TITLE

This Ordinance shall be known and may be cited as the *City of Shelby Unified Development Ordinance*, except as referred to herein, where it shall be known as 'this Ordinance'.

1-2 REPEALS AND ENACTMENT

1-2.1 Repeal of Inconsistency

All ordinances, or portions thereof, of the City of Shelby that relate to zoning, subdivision, and land use which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

1-2.2 Enactment

This Ordinance is hereby enacted and shall be the Unified Development Ordinance for the City of Shelby.

1-2.3 Effective Date

This Ordinance shall become effective on November 19, 2001.

1-3 PURPOSE

1-3.1 General Purpose

It is the purpose of this Ordinance to promote the health, safety, and general welfare of the residents of Shelby through the regulations of this Ordinance.

1-3.2 Zoning Regulation Purpose

The zoning regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Lessen congestion in the streets;
- (B) Secure safety from fire, panic and other dangers;
- (C) Provide adequate light and air,
- (D) Prevent the overcrowding of land;
- (E) Avoid undue concentration of population;
- (F) Facilitate the adequate and economic provision of transportation, water, sewage, schools, parks, and other public services;

- (G) Protect water quality within public water supply watersheds;
- (H) Preserve and enhance visual attractiveness and economic vitality;
- (I) Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic; and
- (J) Establish a zoning vested right upon the approval of a site specific development plan pursuant to NCGS 160A-385.1.

1-3.3 Cluster and Zero Side Setback Regulation Purpose

The single-family dwelling cluster and zero side setback regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Encourage innovation in residential development by providing efficient, attractive, flexible and environmentally sensitive design;
- (B) Lower the costs of housing by reducing the lot size and the per dwelling unit linear footage of streets, water lines, storm sewers and sanitary sewers;
- (C) Reduce the future cost of infrastructure maintenance and, therefore, the burden upon taxpayers and ratepayers;
- (D) Encourage development in areas that have major roads and utility lines in place, but are experiencing little or no development;
- (E) Protect water quality, preserve wildlife habitats, and protect natural features such as streams, lakes, wetlands, and trees; and
- (F) Reduce the amount of grading necessary for site preparation.

1-3.4 Planned Unit Development Purpose

The planned unit development regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Allow diversification of uses in developments intended as cohesive, unified projects;
- (B) Allow variation in the relationship of residential and nonresidential uses and structures in such cohesive, unified projects; and
- (C) Encourage innovation by offering flexibility in design and layout requirements to achieve a greater choice of living and working environments.

1-3.5 Manufactured Housing Regulation Purpose

The manufactured housing regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Provide alternative, affordable housing opportunities for low and moderate income residents in residential areas by allowing for the use of manufactured dwellings; and
- (B) Protect property values and preserve the character and integrity of the community or individual neighborhoods within the community.

1-3.6 Subdivision Regulation Purpose

The subdivision regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Promote orderly growth and development;
- (B) Provide for suitable residential and nonresidential developments with adequate roads and utilities and appropriate building sites;
- (C) Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- (D) Provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities;
- (E) Provide for the dedication or reservation of rights-of-way or easements for street and utility purposes;
- (F) Provide for the dedication or reservation of adequate spaces for public lands and buildings;
- (G) Encourage design that is protective of environmental quality;
- (H) Provide for the dedication or reservation of recreation, park, and greenway areas; and
- (I) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

1-3.7 Sign Regulation Purpose

The sign regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Recognize that signs serve a legitimate public service and that they complement and support trade, tourism, and investment within Shelby;
- (B) Encourage the effective use of signs as a means of visual communication;
- (C) Promote a positive community appearance for the enjoyment of all citizens;
- (D) Maintain and enhance the aesthetic environment and the community's ability to attract sources of economic development and growth;
- (E) Protect the public from damage or injury attributable to distractions and/or obstructions caused by improperly designed or located signs; and

- (F) Protect existing property values in both residential and nonresidential areas.

1-3.8 Off-Street Parking, Stacking, and Loading Regulation Purpose

The off-street parking, stacking, and loading regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Ensure a sufficient amount of off-street parking, stacking, and loading areas for various land uses;
- (B) Ensure easy, convenient circulation of vehicles within parking and loading areas;
- (C) Minimize the potential for conflict with traffic on public streets; and
- (D) Permit the shared use of parking areas by establishments and/or activities that have different hours of operation.

1-3.9 Landscaping Purpose

The City Council of the City of Shelby finds that Shelby is blessed with a diverse and abundant cover of trees and vegetation; which is of general aesthetic value to the City; that the ecological diversity and 'richness of the City make it a desirable place for residents, owners and visitors alike; that the appearance of Shelby from the public ways contributes to the growth and economic prosperity of the City; that Shelby is known as 'The City of Pleasant Living', which is an image symbolic of Shelby's pride in its natural heritage; and that the growth and development attracted to the City of Shelby because of its natural beauty often require the removal of trees and other plant material, thereby contributing to the depletion of a valuable natural resource. Therefore, it is necessary to protect, preserve, and restore this valuable asset. The City Council declares the purposes and intent of the landscaping and buffering regulations adopted and prescribed in this Ordinance to be as follows:

- (A) To promote ecological balance by contributing to air purification, oxygen regeneration, groundwater recharge, stormwater runoff retardation, and noise, glare and heat abatement;
- (B) To encourage the preservation of existing trees and vegetation;
- (C) To provide adequate light and air and prevent overcrowding of land;
- (D) To provide visual buffering and enhance the beautification of the City;
- (E) To safeguard and enhance property values and to protect public and private investment;
- (F) To preserve, protect and restore the unique identity and environment of the City of Shelby and preserve the economic base attracted to the City of Shelby by such factors;
- (G) To conserve energy; and to protect the public health, safety and general welfare;

- (H) To provide habitat for living things that might not otherwise be found in urban and suburban environs.

1-3.10 Watershed Protection Purpose

The watershed protection regulations adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate to:

- (A) Protect those portions of designated public water supply watersheds that lie closest to existing and proposed public water supply sources from activities which could degrade water quality in those water supply sources;
- (B) Reduce the volume of nutrients and other chemicals which could enter the water supply by reducing the amount of runoff which any given development will generate;
- (C) Minimize land disturbance to reduce the amount of sediment washing into streams and lakes and to enhance the infiltration of runoff into soil, thus alleviating the sedimentation of water supply sources that reduces their storage capacity, shortens their useful life, and makes them less able to withstand drought;
- (D) Reduce the probability of the release of harmful chemicals into water supply sources, either through natural catastrophe or human error; and
- (E) Provide for natural and engineered methods for managing the stormwater which flushes contaminants off of impervious surfaces in the watershed areas and which may reach water supply sources unless controlled.

1-3.11 Flood Damage Prevention Purpose

The flood damage prevention regulations, adopted and prescribed in this Ordinance, are found by the City Council to be necessary and appropriate in order to:

- (A) Permit only that development within the floodplain which is appropriate in light of the probability of flood damage and which represents a reasonable social and economic use of land in relation to the hazards involved; and
- (B) Minimize public and private losses due to flood conditions in specific areas by enactment of provisions designed to:
 - (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;
 - (4) Control filling, grading, dredging and other development that may increase erosion or flood damage;

- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- (6) Protect human life and health;
- (7) Minimize expenditure of public money for costly flood control projects;
- (8) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (9) Minimize prolonged business interruptions;
- (10) Minimize damage to public facilities and utilities such as water, sewer, gas, electric, and telephones lines and streets and bridges located in floodplains;
- (11) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- (12) Permit and encourage the retention of open land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the community and which will not impede the flow of floodwaters; and
- (13) Ensure that potential buyers are notified whenever property is in a flood hazard area.

1-3.12 Airport Overlay Zoning Purpose (*Reserved*)

1-3.13 Corridor Protection Purpose

The City Council recognizes that the major corridor entrances into the City create a lasting impression and that the pleasing appearance of these entrances contributes to the growth and economic prosperity of the City. It is the intent of the Corridor Protection District regulations, adopted and prescribed in this Ordinance, to protect these entrances from incompatible development that would degrade their attractiveness. Specifically, the Corridor Protection District is designed to accomplish the following:

- (A) Promote a sensitive conversion of vacant land to more urban uses;
- (B) Support development that is compatible with and enhances the visual attractiveness of the area;
- (C) Promote well-planned, economically viable development;
- (D) Ensure safe and efficient traffic flow; and
- (E) Avoid uncoordinated, strip development patterns.

1-4 JURISDICTION

The provisions of this Ordinance shall apply to all the territory encompassed in the Shelby, North Carolina planning jurisdiction. The City's planning jurisdiction comprises the area

within the corporate limits of the City of Shelby as well as the extraterritorial jurisdictional (ETJ) area as delineated on maps available from the Shelby Community Development Department. The City's planning jurisdiction may be modified from time to time in accordance with Section 160A-360 of the North Carolina General Statutes.

1-5 AUTHORITY

The provisions of this Ordinance are adopted under authority granted by the General Assembly to North Carolina municipalities (NCGS Chapter 160A, Article 19). This Ordinance may be amended from time to time as required or allowed by subsequent legislature enactments. This Ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses, except that animal feeder/breeder operations and any use of property for nonfarm purposes shall be subject to the provisions of this Ordinance. Chapter 3 of the City of Shelby Ordinances regulates the keeping of certain animals within the corporate limits of the City of Shelby. Consequently, some animal operations may not be permissible within zoning districts that are located within the Shelby corporate limits.

1-6 ABROGATION

This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law.

1-7 COMPLIANCE

1-7.1 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified, except as authorized by this Ordinance. The expansion of structures by 25 percent or more of the gross floor area shall require compliance with all applicable requirements of this Ordinance.

1-7.2 Voluntary Compliance

Nothing in this Section shall be deemed to preclude voluntary compliance with the provisions of this Ordinance for development approved prior to the effective date of this Ordinance.

1-8 RELATIONSHIP TO THE LAND DEVELOPMENT PLAN

It is the intention of the City Council that this Ordinance implement the planning policies adopted by the City Council for the City of Shelby, as reflected in the land development plan and other planning documents. While the City Council reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the City Council hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

1-9 FEES

(A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning

permits, sign permits, conditional use permits, special use permits, certificates of appropriateness, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be set forth in the City's budget or as established by resolution of the City Council and filed in the offices of the Community Development Department.

- (B) Fees established in accordance with subsection (A) shall be paid upon submission of a signed application or notice of appeal.

1-10 SEVERABILITY

1-10.1 Invalidation

Should any Section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a Court of competent jurisdiction of either the State of North Carolina or the United States, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

1-10.2 Prejudicial Application

If any Section, sentence, clause, phase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1-10.3 Lawful Presumption

There shall be a conclusive presumption when a Zoning Administrator or board authorizes regulatory action, that such administrator or board would not have authorized such action except in the belief that such action was lawful.