

Shelby City Council Agenda  
Regular Meeting  
August 15, 2022 at 6:00 p.m.

City Hall Council Chamber  
300 South Washington Street  
Shelby, North Carolina

Welcome and Call to Order by Mayor O. Stanhope Anthony III

*Invocation*

*Pledge of Allegiance*

**A. Approval of Agenda**

*Discussion and revision of the proposed agenda, including consent agenda; adoption of an agenda.*

- 1) Motion to adopt the agenda as proposed or amended

**B. Special Presentations:**

1

- 1) Cleveland County Chamber update – Christine Cribb, Executive Director

**C. Public Comment:**

2

*In accordance with City Council’s policy, public comment is only taken at the second regular meeting each month. Any citizen who wishes to address Council must register with the City Clerk prior to 6:00 p.m. on the meeting night. The Mayor will call upon each individual during this portion of the meeting and will allow three (3) minutes to speak.*

**D. Consent Agenda:**

*Prior to approval and adoption of the agenda, a Council Member may move an item from the Consent Agenda to the regular agenda. Items remaining on the Consent Agenda will be considered collectively through a single motion and vote.*

- 1) Approval of the Minutes of the Regular Meeting of August 1, 2022 3 - 12
- 2) Approval of a Resolution honoring Julie Reynolds McMurry on the occasion of her retirement from employment with the City of Shelby: Resolution No. 59-2022 13 - 14

3) Approval of Special Event Application:	15 - 26
a) Shiloh Baptist Church Community Block Party, requested date: September 17, 2022	
4) Adoption of a Budget Ordinance Amendment for the City Of Shelby's American Rescue Plan Water and Sewer Project: Ordinance No. 48-2022	27 - 31
5) Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council – September 5, 2022	32 - 33
E. Unfinished Business:	34
None	
F. New Business:	35 - 40
1) Consideration of appointments to City advisory boards and commissions:	
a) Parks and Recreation Advisory Commission	
2) FIRST READING: An Ordinance amending Chapter 16 of the City Of Shelby Code Of Ordinances: Ordinance No. 49-2022	41 - 56
G. City Manager's Report	57
H. Council Announcements and Remarks	57

I. Closed Session

- 1) To consult with an attorney in order to preserve the attorney client privilege pursuant to N.C.G.S.143-318.11(a)(3) 57

J. Adjournment: 57

*To adjourn a meeting of City Council, a majority of the Council Members must vote for a motion to adjourn.*

- 1) Motion to adjourn

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**B. Special Presentations:**

- 1) Cleveland County Chamber update – Christine Cribb, Executive Director

**Presenting: (Christine Cribb, Executive Director of Cleveland County Chamber)**

Summary of Available Information:

- No Documentation Provided

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City Manager's Recommendation / Comments

This time is scheduled on your agenda to allow Christine Cribb, Executive Director of Cleveland County Chamber, to update the City Council. I've asked Ms. Cribb to update us on a quarterly basis

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**C. Public Comment:**

*In accordance with City Council's policy, public comment is only taken at the second regular meeting each month. Any citizen who wishes to address Council must register with the City Clerk prior to 6:00 p.m. on the meeting night. The Mayor will call upon each individual during this portion of the meeting and will allow three (3) minutes to speak.*

***A reminder that it has been past practice of City Council to only listen to public comment without reply except to refer citizens with requests and concerns to the Office of the City Manager so that they may be addressed in a timely fashion or included on a future agenda for consideration by Council. If this is warranted and directed by City Council.***

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D. Consent Agenda:

Agenda Item: D-1

- 1) Approval of the Minutes of the Regular Meeting of August 1, 2022

**Consent Agenda Item: (Carol Williams, City Clerk)**

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Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Regular Meeting of August 1, 2022

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City Manager's Recommendation / Comments

**Approve the minutes as presented or as amended by the Mayor and City Council via the Consent Agenda.**

## MINUTES

Regular Meeting  
City Hall Council Chamber

August 1, 2022  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony III, presiding; Council Members Andrew L. Hopper Sr., David Causby, Charles Webber, and Violet Arth; City Manager Rick Howell, MPA, ICMA-CM, City Attorney Andrea Leslie-Fite, City Clerk Carol Williams, Executive Administrative Assistant/Deputy Clerk, Breanna Jones; Public Information and Communications Officer, Chip Nuhrah, Director of Finance Elizabeth (Beth) B. Beam, Director of Human Resources Deborah (Deb) Jolly, Fire Chief William P. Hunt, MPA, EFO, Assistant Fire Chief Quentin Cash, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Interim Director of Public Works Scott Black

**Absent:** Council Members David White and Emilie Bullock

Mayor Anthony called the meeting to order at 6:00 p.m. and delivered the invocation.

Ms. Arth led the Pledge of Allegiance.

### A. Approval of agenda:

#### 1) Motion to adopt the proposed agenda

**ACTION TAKEN:** Upon a motion by Mr. Hopper, City Council voted unanimously to approve the agenda as presented.

### B. Special Presentations:

#### 1) Commercial and Residential Development Presentation – Walter Scharer, Director of Planning and Development Services

Mr. Scharer presented an update on residential and commercial development in Shelby. Using a map of Shelby, Mr. Scharer pointed out the areas of residential development that developers have submitted a preliminary plan these include:

- Near Magnolia Plantation
- Near Earl Road
- On Eaves Road
- On S. Lafayette Street near Food Lion
- On Royster Avenue

Mr. Scharer stated these projects, although in the preliminary stage, have to be considered seriously because of the supply chain; the City cannot quickly

provide the initial materials needed for these projects due to the current lack of supply. Mr. Scharer stated that the projects listed consist of 700 dwelling units.

Using another map, Mr. Scharer pointed out the areas of residential development that City Council has recently approved the zoning for these projects:

- Toms Street and Wyke Road
- Marion Street behind the old Harris-Teeter
- On Hwy. 150
- Eaves Road
- Seattle Street

Mr. Scharer stated these projects are a little more serious than the previous projects mentioned, in that most of them will be submitting subdivision plans later this year. Mr. Scharer further stated that the projects listed consist of 721 dwelling units.

Using a third map, Mr. Scharer pointed out the areas of residential development that have been approved and under construction:

- Palisades
- Pinnacle Estates – near the old Hallelujah Acres
- The other end of Hallelujah Acres
- Riverwalk Subdivision near Riverbend

Mr. Scharer further stated that the projects listed consist of 700 dwelling units.

Mr. Scharer commented that if all the projects come to fruition the total is over 2100 dwelling units; the City of Shelby has to be ready to provide the needed materials.

Mr. Howell commented that these developments will be done over a period of time; and there is a supply chain concern to obtain transformers, conduit and pipe to connect natural gas service and electric service to these areas. Mr. Howell further commented that the City will not stockpile materials for these developments until there is actual money spent by the developers to purchase the land, hire engineers, etc. showing they are seriously invested in the project.

Mr. Scharer further commented that in 2021 the Planning Department issued 64 planning permits; so far in 2022 the department has already issued 75 permits. Mr. Scharer stated these are for individual lots all around Shelby.

After a question from Mr. Webber, Mr. Howell updated Council on the project at S. DeKalb Street and Ella Street, near Shelby High School. Mr. Howell stated the project had some unforeseen delays and the pandemic occurred. Mr. Howell has recently spoken to Maida Renson who represents the developer of the project, and currently they are hoping to obtain additional financing from the North Carolina Housing Finance Agency. Mr. Howell stated this project would be approximately 200 apartment type units.



Mr. Hopper asked what the increase in population would be if all these projects were to happen. Mr. Scharer stated the rule of thumb in Planning is 2.4 individuals per unit, so 2100 units multiplied by 2.4 individuals.

Mr. Webber asked what the strategy is if the City doesn't plan on stockpiling materials for electric and natural gas. Mr. Howell stated Mr. Yarboro and staff look at several indicators from developers:

- Has the developer purchased the land?
- Have they spent money on engineering and design?
- Have they begun any infrastructure on the property?
- How many units do they anticipate building in a year?
- What's the market saturation?

Then the City prioritizes and ranks the projects based on the developer's progress, so the City doesn't sink a lot of money into a project that fails to develop. Mr. Howell stated the City has already invested \$2 million on transformers that have a lead time of 110 weeks, which is just one consideration.

Mr. Howell concluded by stating residential development is a good problem to have, because we are seeing growth, but the City needs to consider cash flow and we don't want to be stuck with inventory that isn't used because the housing market fluctuated.

Mr. Scharer concluded his presentation by showing on a map the commercial development happening in Shelby:

- An RV Park off Washburn Switch Road
- Tractor Supply
- Two unnamed fast-food restaurants on 74
- Goodwill is moving to the old Lidl building
- SECU is under development beside the current SECU
- Awaiting construction plans for the TownPlace suites motel
- Ollie's is moving into the old Big Lots
- An additional Taco Bell is coming to the old Zaxby's restaurant
- An unnamed restaurant at the corner of Hwy. 180 and Hwy. 74 at the gas station that was recently torn down
- The Rogers Theater developer has met with the City's building inspectors and fire marshal

2) Uptown Shelby Association update – Audrey Whetten Godfrey, Executive Director

Mrs. Godfrey highlighted several of the items on the handout she provided City Council, they include:

- The RAISE Grant application – Eagerly awaiting the decision and was touched by the community support
- Marketing campaigns:
  - Tourism grant much appreciated from the City of Shelby
  - Plug-ins on their website for better accessibility to events
  - Table toppers in local businesses to promote events
- City of Shelby Employee Appreciation Nights at Shelby Alive
- Searching for a new carriage ride provider
- Rogers Theater has been purchased by an energetic, young local couple with exciting plans – [www.therogers theater.com](http://www.therogers theater.com)
- Opportunity Appalachia grant to explore the redevelopment of the Hotel Charles
- Realized a 62% increase in known entities in Uptown Shelby – nine years ago when Mrs. Godfrey started the number of known entities was 145, now it's up to 235

Mrs. Godfrey listed some upcoming events:

- Shelby Alive Concerts – August 18 – JAVA Band, and September 15 – Donna the Buffalo band
- Art Pop Uptown (formerly Art Walk) is scheduled for October 13

Mrs. Godfrey concluded by stating how much she has enjoyed working with our City Attorney, Andrea Leslie-Fite, and that she will miss her but happy for her future career. Mrs. Godfrey added that she appreciated the dedication and professionalism of the City staff and Council, noting that public service is sometimes a thankless task and not always easy.

Mayor Anthony thanked Mrs. Godfrey for her kind words and added that she does an outstanding job.

### C. Consent Agenda:

Mayor Anthony presented the consent agenda. Ms. Arth moved to approve the consent agenda and the following items were unanimously adopted:

- 1) Approval of the Minutes of the Regular Meeting of July 18, 2022
- 2) Approval of Special Event Application:
  - a) SHS Homecoming Parade, requested date: September 30, 2022
- 3) Management Reports:
  - a. Planning and Development Summary – June 2022
  - b. Financial Summary – June 2022

**D. Unfinished Business:**

- 1) **SECOND READING:** An Ordinance amending Chapters 1, 10, 16, 20, 30, 32, 34 of the City of Shelby Code of Ordinances: Ordinance No. 46-2022

Mrs. Leslie-Fite presented Ordinance No. 46-2022 for a Second Reading and reminded Council that these Chapters are in response to the statutory updates to include Misdemeanor language.

**ACTION TAKEN:** Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Ordinance No. 46-2022 entitled, "AN ORDINANCE AMENDING CHAPTERS 1, 10, 16, 20, 30, 32, 34 OF THE CITY OF SHELBY CODE OF ORDINANCES"

- 2) **SECOND READING:** An Ordinance amending Chapter 12 of the City of Shelby Code of Ordinances: Ordinance No. 47-2022

Mrs. Leslie-Fite presented Ordinance No. 47-2022 for a Second Reading and reminded Council that Chapter 12 is an update for the materials used in the cemeteries for mausoleums, headstones, etc.

**ACTION TAKEN:** Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 47-2022 entitled, "AN ORDINANCE AMENDING CHAPTER 12 OF THE CITY OF SHELBY CODE OF ORDINANCES"

**E. New Business**

- 1) **Consideration of appointment to the North Carolina Municipal Power Agency 1 (NCMPA1) Board of Commissioners as Second Alternate:**

<i>Currently:</i>	<b>Commissioner:</b>	<b>Rick Howell</b>
	<b>1<sup>st</sup> Alternate:</b>	<b>Justin Merritt</b>
	<b>2<sup>nd</sup> Alternate:</b>	<b>Julie McMurry</b>

Mayor Anthony reported that a vacancy exists for the City of Shelby's 2<sup>nd</sup> Alternate representative to the North Carolina Municipal Power Agency Number 1's Board of Commissioners due to Julie McMurry's retirement. Mr. Howell further stated that he recommends Ben Yarboro as 2<sup>nd</sup> Alternate due to the additional responsibilities given to Mr. Yarboro since Mrs. McMurry's retirement. Mr. Howell believes this appointment will give Mr. Yarboro exposure to the North Carolina Municipal Power Agency 1 (NCMPA1) that will benefit the City in the future.

**ACTION TAKEN:** Upon a motion made by Ms. Arth, City Council voted unanimously to appoint Ben Yarboro as 2<sup>nd</sup> Alternate to the North Carolina Municipal Power Agency 1 Board of Commissioners.

- 2) Consideration of a Resolution in support of Destination Cleveland County and authorizing the execution of a Lease and Security Instrument in favor of the City of Shelby: Resolution No. 58-2022

Mr. Howell reminded City Council that in 2008 the City leased the Don Gibson property to Destination Cleveland County for a four-year lease with a four-year renewal and then year to year. Mr. Howell proposed to City Council that the City goes back to providing a four-year term with an option to renew for another four years. Mr. Howell stated the Don Gibson has been a definite boost to our Uptown area for the past 13 years. Resolution No. 58-2022 authorizes the lease agreement between the City of Shelby and Destination Cleveland County; and approves the transfer of personal property, not owned by any individual, to the City of Shelby.

**ACTION TAKEN:** Upon a motion made by Mr. Hopper, City Council voted unanimously to adopt Resolution No. 58-2022 entitled, “A RESOLUTION IN SUPPORT OF DESTINATION CLEVELAND COUNTY AND AUTHORIZING THE EXECUTION OF A LEASE AND SECURITY INSTRUMENT IN FAVOR OF THE CITY OF SHELBY”

#### E. City Manager’s Report:

- Regarding Phase 1 of the resurfacing of streets, which consists of 17.8 miles of City streets started July 27<sup>th</sup> and should be completed by the end of December 2022
- Regarding Shell Building #4 on Randolph Road –
  - 95% of the grading on that property is complete
  - Concrete slab should be done between August 15<sup>th</sup> – 19<sup>th</sup>
  - Precast wall panels will be delivered mid-September
  - Construction should be done by February 14, 2023
- Regarding Shell Building #5 –
  - Preparing plans with the County and hope to move forward soon after Shell Building #4 is sold
- Regarding Phase 1A of the Rail Trail –
  - Funded by a State grant and City funds
  - Runs from Sunset cemetery to West Marion Street
  - Work is scheduled to start September 6, 2022
  - Supply chain for materials is challenging

- Completion date of April 2023
- **Regarding Phase 2 of the Rail Trail –**
  - Runs from W. Marion Street to DeKalb Street
  - Design is in progress and should be complete by October 2022
  - Bid project in December 2022
  - Contingent on the RAISE grant funding
- **Regarding the RAISE Grant funding –**
  - A great team effort which includes the Mayor and Council, State legislators, grant writers, engineers, Chip Nuhrah, Audrey Whetten Godfrey, and citizens that have supported and promoted the project
  - Cautiously optimistic because we have a good project that meets the criteria
  - Limited amount of money with a lot of competition but we should have a good chance of receiving the funding
- **Regarding National Night Out is August 2, 2022 at the Bobby Bell Pavilion**
- **Regarding the Earl Scruggs Music Festival is September 2<sup>nd</sup> – 4<sup>th</sup> at the Tryon Equestrian Center**
- **Regarding Recycling Program**
  - City is interested in looking at the viability of reinstating this program
  - Recycling markets have rebounded some
  - Meeting with recycling officials and private companies to gauge the possibility of reinstating a recycling program
  - Have to have reassurance from a recycling vendor that the recyclables will not be landfilled
  - Ms. Arth thanked Mr. Howell and staff for looking into the Recycling Program again
- **Regarding the Charles Hotel – the City has received notification from the Appalachian Regional Commission’s Opportunity Appalachian program for a grant of \$75,000 to provide technical assistance, to conduct a feasibility study, and whether there is a market for a boutique hotel Uptown. This study will allow the City to present the information to individual investors and developers to decide whether to move forward on this project. Mr. Howell stated the City is not handling this project. Mr. Howell further stated Bank OZK has not committed to selling the property, nor have they been asked, but they are aware of the feasibility study being conducted.**
- **Mr. Howell stated the Charles Hotel is just one piece of the puzzle, just like the Don Gibson, or the Bobby Bell Pavilion, or individual investments in Uptown businesses that build upon each other to improve Shelby’s economy.**

**F. Council Announcements and Remarks:**

**Mayor Anthony urged City Council to encourage citizens to apply to serve on our Boards and Commissions.**

**Mr. Hopper suggested one way to get the word out is to do a segment on the Mondays with the Mayor about service on our Boards or put more information on the City's website.**

**Ms. Arth stated that serving on a Board or Commission is an underrecognized way to be involved in the community.**

**Mayor Anthony reminded Council that the Host City Welcome is next week on August 10<sup>th</sup>. The American Legion World Series starts next Thursday, August 11<sup>th</sup>.**

**Mayor Anthony also shared with Council a brochure about the Dotty Leatherwood Memorial Garden at the LeGrand Center in hopes to promote this project. The brochure includes the plan concept and information on giving a donation to help fund the project.**

**Mr. Hopper spoke about the War Birds coming to the American Legion World Series and it will be exciting, along with other planned events.**

**Mr. Webber acknowledged the great work from Mr. Howell and the City staff despite the challenges. Mayor Anthony also stated he appreciated the City staff's hard work while being short-staffed.**

**Mr. Hopper directed a comment to Mr. Howell stating that it was a good decision many years ago to hire him as City Manager and that he's proven to be a proactive leader that inspires the staff and they follow his lead. Mr. Hopper says the City of Shelby has benefitted from Mr. Howell's leadership.**

**G. Adjournment:**

**1) Motion to adjourn**

**ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to adjourn the meeting at 6:59 p.m.**

**Respectfully submitted,**

**Carol Williams  
City Clerk**

**O. Stanhope Anthony III  
Mayor**

**Minutes of August 1, 2022**

**DRAFT**

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

Agenda Item: D-2

- 2) Approval of a Resolution honoring Julie Reynolds McMurry on the occasion of her retirement from employment with the City of Shelby: Resolution No. 59-2022

**Consent Agenda Item: (Rick Howell, City Manager)**

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Summary of Available Information:

- Resolution No. 59-2022

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City Manager's Recommendation / Comments

This time is scheduled on your agenda to consider a resolution recognizing Julie Reynolds McMurry on the occasion of her retirement from employment. In keeping with policy Resolution No. 59-2022 will recognize her for having served the City faithfully for the past 30 years with Customer Service Department, Purchasing, and the Utilities Department. She is to be congratulated! Ms. McMurry will be greatly missed, both professionally, and as a fellow co-worker.

As is in keeping with current policy Julie McMurry will be presented with a framed resolution, a city lapel pin, and a key to the City. It is customary and appropriate to recognize Julie McMurry for her many years of service to the City.

Please join me in wishing her a healthy and happy retirement.

**It is recommended that Resolution No. 59-2022 be adopted and approved via the Consent Agenda.**

**Retiring or Separating Employee Recognition** - Employees leaving City employment in good standing will receive a plaque from the City Manager after they have attained at least their 20<sup>th</sup> anniversary of service with the City or have attained their 10<sup>th</sup> anniversary and are at least 60 years of age or over. Employees with 25 or more years of service will receive a key to the City, a framed Council resolution and City lapel pin upon retirement from the City. Separating employees who have attained at least five years of service and are leaving in good standing can be recognized on a Department level with a gift or some other form of recognition.



RESOLUTION NO. 59-2022  
A RESOLUTION HONORING JULIE REYNOLDS MCMURRY ON THE OCCASION OF HER  
RETIREMENT FROM EMPLOYMENT WITH THE CITY OF SHELBY

**WHEREAS**, on the occasion of her retirement from employment on June 1, 2022, it is fitting and proper for the City Council to express its sincere appreciation to Julie Reynolds McMurry for her loyal, dedicated, and committed service to the City of Shelby from March 2, 1992 to June 1, 2022; and,

**WHEREAS**, Mrs. McMurry has been a loyal team member in the continuing development of the City of Shelby Utilities Department, particularly the Electric and Natural Gas departments, and to all of its citizens; and,

**WHEREAS**, during her tenure of service, Julie McMurry has been a dedicated employee for the City of Shelby, Beginning as a Billing Clerk in 1992, promoted to Purchasing Officer in 1997 and Purchasing Manager in 2000, and;

**WHEREAS**, In 2002 Mrs. McMurry transferred to the Utilities Department as Business Manager, promoted in 2004 to Administrative Services Manager, and Interim Utilities Director in 2005 for two years. In 2014 Mrs. McMurry was again promoted to Interim Utilities Director, and in 2015 was promoted to Director of Energy Services where she continued until her retirement, and,

**WHEREAS**, throughout her career, Julie McMurry has demonstrated the utmost professionalism, ability, and integrity, winning the unbridled respect and admiration of her colleagues and fellow citizens of the City of Shelby; and,

**WHEREAS**, Mrs. McMurry served on the Carolinas Public Gas Association Board and was the first female Board Chair in 2021; Julie was also instrumental in the development of the Cleveland Community College Lineman program; and,

**WHEREAS**, Mrs. McMurry served on the Board of Commissioners, and various committees with ElectriCities, in addition, she was served on the North Carolina Association of Municipal Electric Systems (NCAMES) Board and Conference Planning Committee; and,

**WHEREAS**, the City of Shelby is most grateful for the professional, and personal contributions Mrs. McMurry has given to all the citizens, organizations, and businesses within the greater Shelby community; and,

**WHEREAS**, the City Council of the City of Shelby wishes to acknowledge and express its appreciation to Julie Reynolds McMurry for her over 30 years of dedicated and devoted duty in service to its citizens, noting that Mrs. McMurry will be missed both professionally and as a fellow co-worker who was always proficient and reliable throughout her career.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and City Council publicly express their sincere appreciation to Julie Reynolds McMurry for her performance of duty to the City of Shelby during the past 30 years, and extend the very best wishes for a successful, long, safe, and happy retirement.

**BE IT FURTHER RESOLVED** that this Resolution be entered upon the permanent Minutes of the City Council.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Shelby to be affixed this the 15th day of August, 2022.

\_\_\_\_\_  
O. Stanhope Anthony III  
Mayor

ATTEST:

\_\_\_\_\_  
Carol Williams  
City Clerk

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

Agenda Item: D-3

3) Approval of Special Event Application:

- a) Shiloh Baptist Church Community Block Party, requested date:  
September 17, 2022

**Consent Agenda Item: (Carol Williams, City Clerk)**

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Summary of Available Information:

- Memorandum dated August 10, 2022, from Carol Williams, City Clerk, to Rick Howell, City Manager
- Special Event Application

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City Manager's Recommendation / Comments

This event is in keeping with special event practices of the City. It is my recommendation that this item be approved by City Council at this time via the Consent Agenda.

# Memo

**To:** Rick Howell, City Manager

**From:** Carol Williams, City Clerk

**Date:** August 10, 2022

**Re:** Special Event Permit Application

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## BACKGROUND:

A Special Event Permit Application has been submitted for the following:

- ✓ Shiloh Baptist Church Block Party, requested date: Saturday, September 17, 2022

## REVIEW:

All responding City departments have received, reviewed, and approved the referenced application.

## RECOMMENDATION:

Please place the attached Special Event Permit Application on the Consent Agenda of August 15, 2022 for Council's review and approval.

## ATTACHMENT:

- A. Special Event Permit Application packet received August 9, 2022



TO: SPECIAL EVENT SPONSORS

PLEASE COMPLETE THE ATTACHED SPECIAL EVENT PERMIT APPLICATION AND RETURN IT, ALONG WITH THE \$20 PROCESSING FEE PAYABLE TO THE CITY OF SHELBY, TO THE CITY CLERK'S OFFICE AT LEAST THIRTY (30) DAYS PRIOR TO THE SCHEDULED EVENT. YOUR APPLICATION WILL BE REVIEWED BY THE APPROPRIATE CITY DEPARTMENTS AND ULTIMATELY APPROVED BY CITY COUNCIL AT A REGULARLY SCHEDULED MEETING. THE CITY CLERK WILL MAIL A CONFIRMING PERMIT LETTER TO YOU PRIOR TO THE EVENT DATE.

IF YOU HAVE ANY QUESTIONS OR NEED ADDITIONAL INFORMATION, PLEASE CALL THE CITY CLERK AT 704 669-6588.

**CITY OF SHELBY  
SPECIAL EVENT PERMIT  
APPLICATION INSTRUCTIONS**

1. **EVENT NAME:** Provide the common name by which the event is to be known.
2. **PURPOSE AND BRIEF DESCRIPTION OF EVENT:** Please explain what type of event will be held. For example: A parade, fundraiser, festival, etc.
3. **LOCATION OF EVENT:** Please explain where you plan to hold your event. A map containing the event location and the event layout is required.
4. **PERSONS/VEHICLES/ANIMALS:** Please explain the number of people expected to attend the event. In addition, estimate the number of vehicles that will be at the event and list any animals, which will be present.
5. **RESPONSIBLE PARTIES:** Please list the individual(s) who will be responsible for the well being of the event.
6. **DATE, HOURS, TIME OF ASSEMBLY:** The date of the event must be at least thirty (30) days after the date of submittal of the application. Activities on a weekday will be prohibited from taking place during the peak rush periods 7-9 a.m. and 4-7 p.m. to the extent that the activity uses a major thoroughfare. Please list an alternate date that would be appropriate for the event in case a conflict arises.
7. **EVENT NOTIFICATION TO RESIDENTS AND BUSINESSES:**

Events that require temporarily closing streets or sidewalks require event notification to nearby residents and businesses. **You are responsible for notifying the neighbors and businesses in the surrounding area of your event** at least thirty (30) days prior to the event application. Please show respect to our local neighbors and businesses by giving them notice about any impact the event may have on them. Please plan to notify both the property owner and the tenants. Common factors to consider are traffic, noise, and any temporary street closures.

**At a minimum, you should provide direct notification (typically door-to-door visits) to:**

- Residents and businesses on and adjacent to a proposed temporary street closure
- Residents and businesses who may be seriously impacted by the temporary street closure (especially those whose primary access to their property is affected by the closure)

8. **SANITATION:** You will need to explain your plan of action to promote and maintain a sanitary environment. Include number and location of trash containers to be provided for the event. Include number and location of trash containers to be provided for the event. Indicate who will be responsible for making sure the event location is cleaned after the event. Describe the number and type location of portable toilets to be provided for the event (or toilets to be used for the event).
9. **FOOD/BEVERAGES/ENTERTAINMENT:** Please explain your proposed use of any and all beverages/foods at the event.
10. **SECURITY AND SAFETY PROCEDURES:** This section will ensure the safety of the event participants, property, and staff. In certain circumstances a building permit and fire department permit will need to be obtained. A description of first aid staffing may also be needed. Additionally medical services may need to be provided.
11. **CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:** Please indicate what services or equipment the event will request from the City of Shelby.
12. **FALSE STATEMENT; PENALTY:** Any person who shall willfully make any false statement in any application for a license under any section of this article or schedule shall be guilty of a misdemeanor, and upon conviction shall be fined and/or imprisoned subject to the general penalty provisions in section 1-4.
  - a. Whenever in this Code or in any ordinance of the city any act is prohibited or is declared to be unlawful or a civil offense or the doing of any act is required, or the failure to do any act is declared to be unlawful or a civil offense, and no specific civil penalty is provided, the violation of any such provision of this Code or ordinance shall be punished by assessment of an initial civil fine of \$50.00. Upon the levy of the initial fine, a subsequent period of 20 days will be granted within which to comply with the Code. Should the offense not be resolved before the expiration of such period, additional and daily penalties of \$25.00 for each day that the offense continues shall be levied for a maximum of ten additional days, for a possible cumulative total penalty of \$300.00. Should the offense continue at the end of the penalty period, the city may then employ civil suit in a court of competent jurisdiction to compel compliance and payment of accrued civil penalties. The city may cite and pursue any continuing or repeated offense of separate charges. Each such charge shall be subject to the penalty provisions of this section without limitation as to number.
  - b. This section shall have no application to any ordinance, which may allow criminal sanctions for its violation. All violations of this Code, which are

criminal in nature, shall be subject to the maximum penalty authorized by G.S. 14-4, as amended.

## CITY OF SHELBY SPECIAL EVENT PERMIT APPLICATION

Each question must be legible and answered clearly and completely. Applications must be filed with the City Clerk not less than thirty (30) days before the date on which the event is to take place. A fee of \$20.00 will be due upon submission of the application form.

**1. EVENT NAME:**

Block Party

**2. PURPOSE AND BRIEF DESCRIPTION OF EVENT:**

This will be a community event to provide games, activities + food as a way of reaching out to those in the surrounding area.

**3. LOCATION OF EVENT (ATTACH MAP):**

Shiloh Baptist Church  
914 Frederick Street

**4. PLEASE INDICATE:**

Approximately how many people will attend the event? 150-200

Approximately how many vehicles will be present? 50-75

Approximately how many animals will be present? 0

If the event is a parade, please indicate the amount of street that will be needed:

Single lane N/A

All lanes in travel direction \_\_\_\_\_

Whole street \_\_\_\_\_

**5. PLEASE LIST THE FOLLOWING PARTY (IES) RESPONSIBLE FOR THE EVENT:**

Name: Shiloh Baptist Church

Address: 914 Frederick St., Shelby, NC

Phones: (704) 482-5891      (704) 418-5139  
(Daytime) (704) 487-4108      (Evening)

Shilohbaptist.shelby@gmail.com  
E-mail address

Name: Jean Mitchell

Address: 1106 Hardin Dr.

Phones: 704 482-5891      704 418-5139  
(Daytime)      (Evening)

jermit1@hotmail.com  
E-mail address

**6. PLEASE LIST THE FOLLOWING:**

Requested day(s) and date(s) 9/17/22 (Saturday)

Alternate day(s) and date(s) \_\_\_\_\_

Requested hours of operation, from 2 AM/PM to 6 AM/PM

**7. EVENT NOTIFICATION TO RESIDENTS AND BUSINESSES:** As an event planner, you are responsible for notifying the neighbors and businesses in the surrounding area of your event. The City requires notifying as many businesses and residents around the event site as possible as early as possible. Please provide your plan of notification at the time you submit your permit application.

**8. SANITATION:** Please attach your "Plan for Clean-Up." Please check Application Instruction sheet for details. Church members and custodians will clean-up the area.



**9. AVAILABILITY OF FOOD, BEVERAGES, AND/OR**

**ENTERTAINMENT:** If there will be music, sound amplification, or any other noise impact, please describe on attached sheet, including the intended hours of the music, sound, or noise.

Will alcoholic beverages be served? NO

If yes, attach to the application a copy of your permit from the Cleveland County Alcoholic beverage Control Board. Alcohol may not be served without a permit.

Will food and/or no-alcoholic beverages be served? yes

If yes, attach to the application a copy of your permit from the Cleveland County Department of Health Services.

**10. SECURITY AND SAFETY PROCEDURES:** Attach to this application a copy of your building permit(s) if you are installing any electrical wiring on a temporary or permanent basis and/or if you are building any temporary or permanent structures such as bleachers, scaffolding, a grandstand, viewing stands, stages, or platforms.

Attach a copy of your Shelby Fire & Rescue Department Permit or permits to this application if you will use parade floats; an open flame; fireworks; or pyrotechnics; vehicle fuel; cooking facilities; enclosures (and tables within those enclosures); tents; air-supported structures; and/or any fabric shelter.

Give name, address, and phone numbers of the agency or agencies, which will provide first aid staff and equipment. Attach additional sheets if necessary.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phones: \_\_\_\_\_

Indicate medical services that will be provided for the event.

AMBULANCE: Shelby EMS

DOCTOR (S): \_\_\_\_\_

PARAMEDICS: \_\_\_\_\_

**11. CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:**

barricades for street closure  
trash cans

**Event Power Request Form and Pricing**

To utilize the event panels for power in Uptown Shelby, this form must be submitted with event application and payment made at time of application.

Please use the map below for event panel locations, circle the event panels that you need for your event. If you have questions about the electrical requirements for your event, please contact the Electric Superintendent at 704-669-6649.

~~Name of Special Event: \_\_\_\_\_  
Authorize Event/Vendor Coordinator: \_\_\_\_\_  
Phone No.: \_\_\_\_\_ Mobile No.: \_\_\_\_\_  
Email: \_\_\_\_\_~~

**Event panel (EP) cost is \$15.00 per day per event panel.**

**Stage panel (STG PAN) cost is \$110.00 per day per stage panel.**

**Full Day Rentals only**

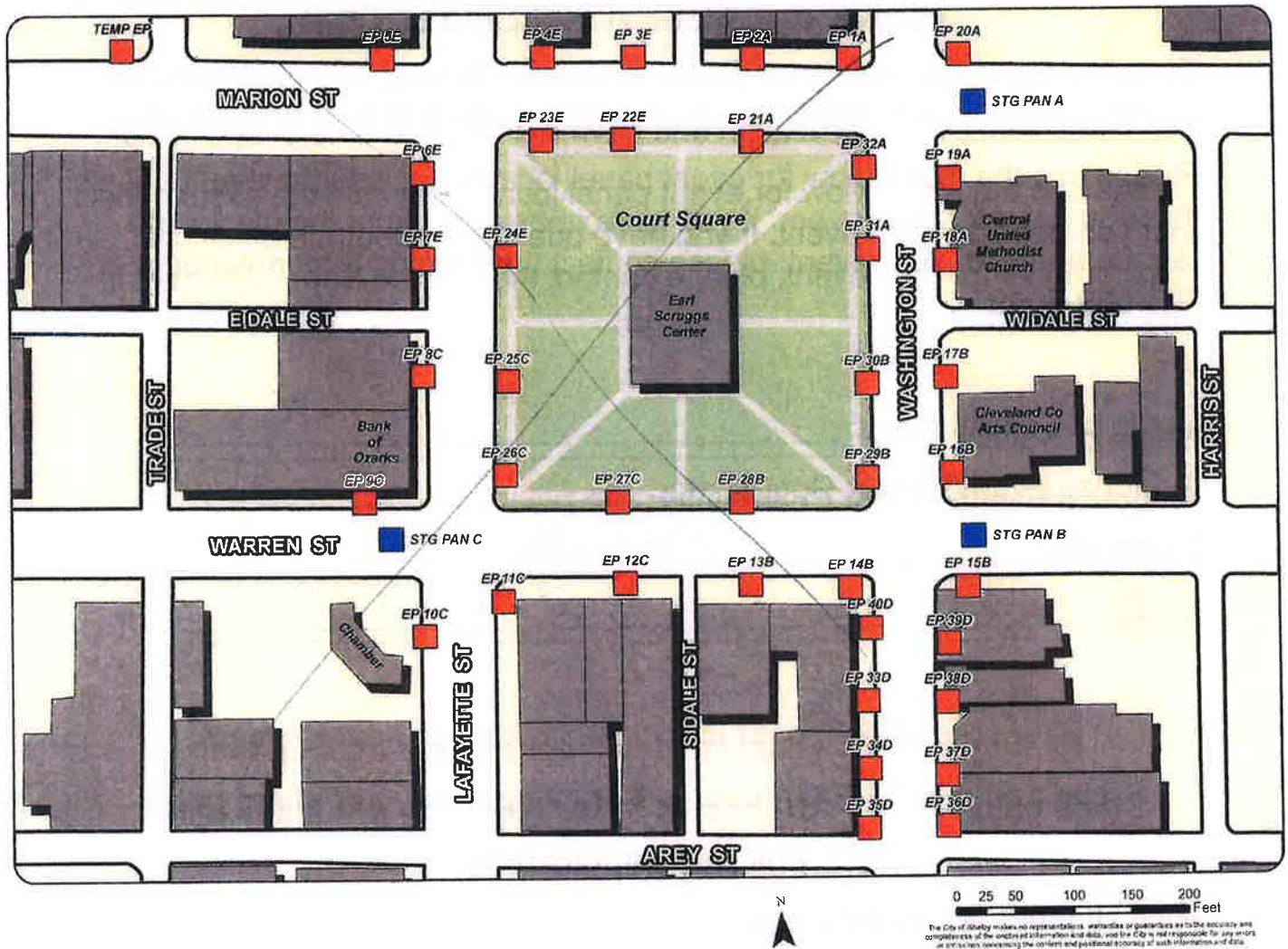
~~Total Number of Event Panels:  
\_\_\_\_\_ x \$15.00 x Number of Days \_\_\_\_\_ = \$ \_\_\_\_\_~~

~~Total Number of Stage Panels:  
\_\_\_\_\_ x \$110.00 x Number of Days \_\_\_\_\_ = \$ \_\_\_\_\_~~

**All fees must be paid at the time of event application.**

**Any event panel not requested and paid for in advance and requested the day of the event will be subject to an after-hours charge.**

# City of Shelby Uptown Event Panels



## Legend

- Event Panel
- Stage Panel



# Google Maps 1000 Frederick St



Map data ©2022 Google 100 ft



## 1000 Frederick St



Directions



Save



Nearby



Send to phone



Share



1000 Frederick St, Shelby, NC 28150

8F4C+38 Shelby, North Carolina

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

Agenda Item: D-4

- 4) Adoption of a Budget Ordinance Amendment for the City of Shelby's American Rescue Plan Water and Sewer Project: Ordinance No. 48-2022

**Consent Agenda Item: (Justin Merritt, Asst City Manager and David Hux, Director of Water Resources)**

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Summary of Available Information:

- Memorandum dated August 10, 2022, from David Hux, Director of Water Resources to Justin Merritt, Assistant City Manager
- Ordinance No. 48-2022

---

City Manager's Recommendation / Comments

Ordinance No. 48-2022 is presented for City Council consideration at this time via the Consent Agenda. This matter is considered routine. Council will recall adoption of Project Budget Ordinance No. 45-2022 appropriating funding for the maintenance and repair of various water and sewer facilities on July 18, 2022. Ordinance No. 48-2022 would simply amend the original project budget ordinance by appropriating an additional \$115,000 from the \$3,000,000 of allocated ARP funding to allow for the replacement of a section of sewer line on Blanton Street ahead of the TAMP street resurfacing project.

**It is my recommendation that Ordinance No. 48-2022 be adopted and approved via the Consent Agenda.**



## Memorandum

**To:** Justin Merritt; Assistant City Manager

**CC:** Rick Howell, City Manager  
Ben Yarboro; Assistant City Manager - Operations

**From:** David Hux, Director of Water Resources *David Hux*

**Date:** August 10, 2022

**Subject:** Water and Sewer Projects - Project Budget Ordinances  
American Rescue Plan Funds – Additional Project

### Background

Over the course of the last 15 years, Water Resources has developed a comprehensive list of improvement projects for both water and sewer. This list has been developed through both internal and external evaluations that have included staff and in some cases consultant/engineer input. This list allows us to plan for improvements that are needed for system upgrades to continue to operate in a safe manner that follows all State and Federal regulations when money is needed and made available. With a large amount of work complete at the First Broad WWTP, Water Resources has turned our focus on continued improvements at the water plant, in the water distribution system and sewer collection system. With the approved street resurfacing initiative, Water Resources has also stepped-up internal evaluations of the water and sewer system to identify critical improvements needed prior to the multi-phased resurfacing plan.

During the previous budget year, the City received \$6.3 million from the American Rescue Plan that will allow us to move forward with several priority items that have been identified, reviewed and prioritized by staff.

### Review

City staff has identified an additional sewer line project from recent system evaluations in regards to the street resurfacing projects. At this time Water Resources is recommending an additional appropriation/project(s) as outlined below:

SEWERLINE PROJECTS	Engineering	Construction	Total
		621726-53000-62880	
Blanton Street Sewerline Replacement		\$115,000	\$115,000
<b>TOTALS</b>	<b>\$0</b>	<b>\$115,000</b>	<b>\$115,000</b>

**Recommendation**

Water Resources staff recommends the transfer of funds from the ARP Fund (62106000-39250-62880) to the sewerline project fund (621726-53000-62880) to complete the project outlined above.

Please let me know if additional information is needed.



ORDINANCE NO. 48-2022  
 BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S  
 AMERICAN RESCUE PLAN WATER AND SEWER PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its capital project ordinance and budgets for the City of Shelby's American Rescue Plan Water and Sewer Project; and

WHEREAS, the City Manager (Budget Officer) has recommended certain amendments to the budget which the governing body finds acceptable; and,

WHEREAS, City Council now desires to act on the recommended budget amendments and approve the same for implementation and compliance with the North Carolina Local Government Budget and Fiscal Control Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. Ordinance No. 45-2022, the City's American Rescue Plan Water and Sewer Project, is hereby amended as follows to provide for Budget Amendment No. 1 for said project:

**Appropriating Revenues:**

ARP Funds-Federal	25002000-34550	\$115,000
Transfer to Sewer Cap. Projects	250550-49621	\$115,000

**Sewer Fund Capital Projects:**

(1) The following Sewer Fund Cap. Project Revenues are amended by the City:

Transfer from ARP Fund	62106000-39250-62880	\$ 115,000
------------------------	----------------------	------------

(2) The following Sewer Fund Cap. Project Expenditures are amended by the City:

Construction	621726-53000-62880	\$ 115,000
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Section 2. That the revenues, expenditures and amendments set forth in Section 1 of this ordinance are hereby summarized as follows:

**American Rescue Plan Sewer Projects:**

	<u>Current Budget</u>	<u>Amendment No. 1</u>
<b>Revenues</b>		
Transfer from ARP Fund	\$190,000	\$305,000
<b>Expenditures</b>		
Construction	\$190,000	\$305,000

Ordinance No. 48-2022  
August 15, 2022  
Page 2

Section 3. Copies of this Budget Ordinance Amendment shall be furnished to the City Manager as Budget Officer and to the Finance Director to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Shelby City Code, the General Statutes of North Carolina, and the provisions of the original budget ordinance; inclusive of GS 159-28 governing budgetary accounting of appropriations.

Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and Approved this the 15th day of August, 2022.

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O. Stanhope Anthony, III  
Mayor

ATTEST:

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Carol Williams  
City Clerk

APPROVED AS TO FORM:

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Andrea Leslie-Fite  
City Attorney

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

Agenda Item: D-5

- 5) Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council –  
September 5, 2022

**Consent Agenda Item: (Carol Williams, City Clerk)**

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Summary of Available Information:

- Notice of Cancellation

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City Manager's Recommendation / Comments

After reviewing with staff, the upcoming agenda schedule, and any upcoming items requiring action by City Council, it is my recommendation that the regular meeting slated for Monday, September 5, 2022, be cancelled via the Consent Agenda. As a matter of practice agenda items are scheduled and planned weeks in advance for most items to allow the appropriate review process to occur. I would note that in the event an issue arises that would require immediate action by City Council a special meeting could be called in accordance with the NC General Statutes. If approved by City Council your next regularly scheduled meeting would be held on Monday, September 19, 2022.

**Notice of Cancellation  
in the  
Regular Meeting Schedule  
of  
Shelby City Council**

This notice is to inform the general public and the media and is conducted in accordance with the mandates of North Carolina General Statutes 160A-71 and 143-318.12 (a), that the regularly scheduled September 5, 2022, meeting of the Shelby City Council has been cancelled in observance of the Labor Day holiday. The regular meeting schedule, as adopted by the Council, remains in place for

all other regular meetings of the Council and will resume:

**Monday, September 19, 2022, at 6:00 p.m.  
City Hall Council Chamber  
300 South Washington Street  
Shelby, North Carolina**

**Dated: August 10, 2022**

**O. Stanhope Anthony III  
Mayor**

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

E. Unfinished Business

None

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

**F. New Business**

**Agenda Item F-1**

- 1) Consideration of appointments to City advisory boards and commissions:
  - a) Parks and Recreation Advisory Commission

**New Business Item: (Carol Williams, City Clerk)**

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- Memorandum dated August 10, 2022, Carol Williams, City Clerk to Rick Howell, City Manager
- Applications for Appointment to Shelby Parks and Recreation Advisory Commission (Chris Gray and Tanzy Wallace)

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**City Manager's Recommendation / Comments**

Volunteers are an essential part of the work the City performs each year. As always this is just a reminder that we all should work to recruit qualified and quality people to serve whenever possible. Solicitation of both qualified and interested citizens to serve on these important advisory boards remains a priority for 2022. I would challenge each of you to recruit viable candidates that possess the knowledge and willingness to serve during the coming months.

I cannot emphasize enough the importance of appointing quality people to these very important citizen boards and commissions. It is incumbent upon Council as the appointing authority to ensure members are responsible members of the community who will make decisions that reflect the established and recognized values of the City. These appointees after all reflect upon Council as the appointing authority as well as the City as they conduct business month to month.

**OFFICE OF THE  
CITY CLERK**



# Memo

To: Rick Howell, City Manager  
From: Carol Williams, City Clerk  
Date: August 10, 2022  
Re: Appointments to City Advisory Boards

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**BOARD REVIEW:**

**PARKS AND RECREATION ADVISORY COMMISSION –**

The terms of three incumbents, Allen Langley, David Lynn, and Robert Coleman, concluded July, 2022. The three incumbents wish to continue their service.

This Board currently has a vacancy, so it has 8 members instead of the 9 possible.

There are two applications on file in the Clerk's Office – Chris Gray (Ward 4), and Tanzy Wallace (Ward 5).

**POSSIBLE ACTION:**

**PARKS AND RECREATION ADVISORY COMMISSION –**

Council can begin the nominating process or take appointive action for three new terms concluding July 2025, and the vacancy concluding July 2024.

**Attachment:**

- A. Parks and Recreation Advisory Commission Roster 2022

## PARKS AND RECREATION ADVISORY BOARD 2022

MEMBERS	ADDRESS	TERM EXPIRATION	PHONE NUMBER
Juan L. Cherry <a href="mailto:juancherry07@gmail.com">juancherry07@gmail.com</a>	307 Goldfinch Court Shelby, NC 28150	July 2024	H: 704 300-8617 W: 704 476-8386
<b>VACANCY</b>		<b>July 2024</b>	
Michael Shawn Collins <a href="mailto:shawn.collins@ncdps.gov">shawn.collins@ncdps.gov</a>	100 Buck Landing Drive Shelby, NC 28150	July 2024	H: 704 472-2694 W: 704 480-5648
Shanda Hoskins <a href="mailto:hoskins.34@hotmail.com">hoskins.34@hotmail.com</a>	115 Ashley Street Shelby, NC 28150	July 2024	H: 704 482-7717 W: 704 472-2460
Marie Hendrick	1309 Stone Gate Drive Shelby, NC 28150	July 2023	704 487-1012
Craig Ferree	914 Blanton Street Shelby, NC 28150	July 2023	H: 704 487-1498 W: 704 482-6384
Allen Langley, Chair	306 Windsor Drive Shelby, NC 28150	July 2022	704 482-3741
David Carl Lynn, Vice Chair <a href="mailto:davidclynn@yahoo.com">davidclynn@yahoo.com</a>	243 Country Club Circle Shelby, NC 28150	July 2022	H: 704 482-6233 W: 704 482-4331
Robert Coleman <a href="mailto:rcoleman006@carolina.rr.com">rcoleman006@carolina.rr.com</a>	315 Windsor Drive Shelby, NC 28150	July 2022	H: 704 297-2947 W: 704 487-0035

Meetings are held on the third Wednesday of each month at 12:00 noon, Shelby City Park Aquatic Center Conference Room

Three (3) year appointments

City Council Liaison: David White – Ward 2  
1717 Arbor Way Drive, Shelby, NC 28150  
704 472-1456  
E-mail: [dwalt50@carolina.rr.com](mailto:dwalt50@carolina.rr.com)

Staffed by: Charlie Holtzclaw, Director, Parks & Recreation Department  
Hannah Weidenhamer, Secretary to the Board, Parks & Recreation Department  
Office: 704 484-6821





APPLICATION FOR APPOINTMENT TO  
BOARDS AND COMMISSIONS



The Shelby City Council believes that all citizens should have the opportunity to actively participate in governmental decisions. One way of participating is by serving as a voluntary member of one of the City's boards, commissions, or committees as outlined below. If you have an interest in being considered for appointment, please complete the form below and mail it to the City Clerk, City of Shelby, P O Box 207, Shelby, NC 28151-0207 or email it to [bernie.parduski@cityofshelby.com](mailto:bernie.parduski@cityofshelby.com). If you have questions or need assistance, please call 704 669-6588. Thank you!

- Keep Shelby Beautiful Commission
- Shelby-Cleveland County Regional Airport Advisory Commission
- Shelby Alcoholic Beverage Control Board
- Shelby Zoning Board of Adjustment
- Shelby Firefighters Relief Fund Board of Trustees
- Shelby Housing & Redevelopment Advisory Board
- Shelby Parks & Recreation Advisory Commission
- Shelby Planning & Zoning Advisory Board

DATE AUGUST 22, 2019

NAME CHRIS GRAY

ADDRESS (No P O Boxes please) 602 W MARION STREET

CITY / STATE / ZIP SHELBY NC 28150

DO YOU RESIDE WITHIN THE CITY OF SHELBY'S CORPORATE LIMITS?  
YES

DO YOU RESIDE WITHIN THE CITY OF SHELBY'S EXTRATERRITORIAL JURISDICTION (ETJ)?

WARD 4

PHONE NUMBERS: Home 239.304.6434 Work SAME

EMAIL ADDRESS chris.gray@fullcirclelegalsolutions.com

OCCUPATION BUSINESS OWNER / NON-PROFIT EXECUTIVE

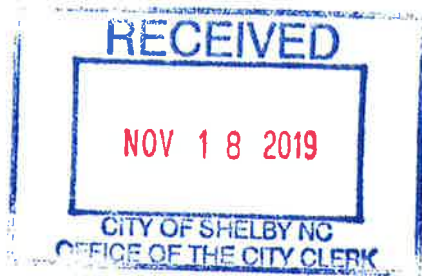
EDUCATIONAL BACKGROUND BLA - UNIVERSITY OF GEORGIA, 89'

BOARD OR COMMISSION INTERESTED IN:

1. SHELBY PARKS & RECREATION ADVISORY COMMISSION
2. \_\_\_\_\_
3. \_\_\_\_\_

OTHER COMMENTS: DISCUSSED W/ STAN ANTHONY

SIGNATURE  DATE 8.22.19



**APPLICATION FOR APPOINTMENT TO BOARDS AND COMMISSIONS**

The Shelby City Council believes that all citizens should have the opportunity to actively participate in governmental decisions. One way of participating is by serving as a voluntary member of one of the City's Boards, Commissions or Committees as outlined below. If you have interest in being considered for appointment, please complete the form below and mail it to the City Clerk, City of Shelby, and P.O. Box 207, Shelby, North Carolina 28151-0207.

- Shelby-Cleveland County Regional Airport Advisory Commission
- Shelby Alcoholic Beverage Control Board
- Shelby Appearance Advisory Commission
- Shelby Zoning Board of Adjustment
- Shelby Community Relations Council ✓
- Shelby Fireman's Relief Fund Board of Trustees
- Shelby Housing & Redevelopment Advisory Board
- Shelby Parks & Recreation Advisory Commission
- Shelby Planning & Zoning Advisory Board

Ward 5

\*Other committees that may be formed by the Mayor and City Council

DATE 11/13/19

NAME Janzy B. Wallace

ADDRESS (No PO Boxes, please) 1104 S. Lafayette St.

CITY / STATE / ZIP Shelby NC

TELEPHONE (Home) \_\_\_\_\_ (Work) cell # 704-300-5439

EMAIL ADDRESS janzybw@gmail.com

OCCUPATION Consultant, Cert. SA. Prev. Consultant

EDUCATIONAL BACKGROUND Public Health Education (BS), UNCG, Grad. Studies Counseling (Group) USAF/R

BOARD OR COMMISSION INTERESTED IN:

BAP  
11/13/19

- ~~1. Community Relations Council~~
2. Housing & Redevelopment Advisory Board
3. Shelby Parks & Rec. Advisory Commission

OTHER COMMENTS:

SIGNATURE

*Jangy Bralace*

DATE

11/13/19

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

Agenda Item: F-2

- 2) **FIRST READING:** An Ordinance amending Chapter 16 of the City of Shelby Code of Ordinances: Ordinance No. 49-2022

**New Business Item: (Andrea Leslie-Fite, City Attorney)**

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- Memorandum dated August 3, 2022, Andrea Leslie-Fite, City Attorney to Rick Howell, City Manager
- Ordinance No. 49-2022

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City Manager's Recommendation / Comments

Ordinance No. 49-2022 is presented for City Council consideration at this time. If approved this ordinance would ultimately amend the existing noise provisions of the City Code to better set forth clear expectations and procedures regarding the emission of noise within the City of Shelby. The current provisions are not as clear as concise to facilitate enforcement in many respects. The proposed revisions clarify and modernize the language within the City Code.

This is the first reading only and will require a second reading for final City Council action.

Agenda Item: G



To: Rick Howell, City Manager

From: Andrea Leslie-Fite, City Attorney

Date: August 9, 2022

Subject: Proposed Revisions to Chapter 16 of the Code of Ordinances

Background:

N.C.G.S. 160A-184 authorizes cities to regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb or frighten its citizens. Staff has reviewed the City's current ordinance and determined that an update is appropriate to ensure better enforcement. The proposed ordinance language endeavors to set forth clear expectations and procedures regarding the emission of noises within the City of Shelby.

Recommendation

It is recommended that City Council, following two reads of the proposed ordinance, adopt the Ordinance entitled: An Ordinance Amending Chapter 16 of the Shelby City Code of Ordinances

**ORDINANCE NO. 49-2022**

**AN ORDINANCE AMENDING CHAPTER 16 OF  
THE CITY OF SHELBY CODE OF ORDINANCES**

**WHEREAS**, G.S. 160A-184 authorizes cities to regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and

**WHEREAS**, the City of Shelby regulates noise emission pursuant to G.S. 160A-184; and

**WHEREAS**, such sounds do not include the ordinary and usual sounds, noises, commotion or vibration incidental to residential living or operation of businesses or commercial establishments; and

**WHEREAS**, the Shelby City Council deems it prudent and necessary to update the City of Shelby Code of Ordinances to conform with current industry standards and legal conformity; and

NOW, THEREFORE, BE IT RESOLVED that:

**Section 1.** The City of Shelby Code of Ordinances be amended as follows:

**Sec. 16-31. Terminology; definitions; measurement standards.**

~~(a) *Terminology.* All terminology used in this article not defined in subsection (b) of this section shall be in conformance with the applicable publications of the American National Standards Institute (ANSI) or its successor body, or the ordinary and common usage of such terms.~~

~~(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~*Emergency work* means any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.~~

~~*Outdoor amplified sound* means any sound using sound amplifying equipment whose source is outside or whose source is inside and the sound travels to the outside through open doors, windows or other openings in a building or other structure.~~

~~*Sound amplifying equipment* means any device for the amplification of the human voice, music or any other sound, including jukeboxes, stereos or radios.~~

**16-31. Statement of purpose and intent; loud, disturbing noises prohibited, generally.**

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances or unreasonably loud noise and are enacted pursuant to the authority granted in G.S. 160A- 184. Above certain levels or durations and during specific times of day, unreasonably loud noise or noise disturbance is detrimental to health, safety and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. It is the policy of the city to

prohibit noise disturbances or unreasonably loud noise from all sources, subject to its police power, in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of the City of Shelby. Nothing in this Article \_\_\_ is intended to deter individuals from lawfully exercising the individual right of freedom of speech and commerce or any other freedom guaranteed under the Constitutions of the United States of America or of the State of North Carolina, and nothing in this Article is intended to unreasonably limit or restrain commercial or industrial enterprise.

Subject to the provisions of 16-33 through 16-41, it shall be unlawful for any person to create or assist in creating any unreasonably loud, disturbing noise in the city which does frighten, annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of citizens within the City of Shelby or causes damage to property or business within the City of Shelby. Such sounds do not include the ordinary and usual sounds, noises commotion, or vibration incidental to residential living or operation of business or commercial establishments when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business.

**Sec. 16-32. Loud or disturbing acts prohibited; permits for temporary variances.**

~~(a) Unlawful noise.~~

- ~~(1) It shall be unlawful for any person to create or to assist in creating, or to permit the continuance of any unreasonably loud, disturbing and unnecessary noise within the corporate limits of the city. Noise of such character, intensity and duration as to be detrimental to the public health, welfare and peace is prohibited.~~
- ~~(2) The following acts, among others not enumerated in this section, are declared to create such unreasonably loud or disturbing noises and, therefore, to violate the provisions of this section:
  - ~~a. The playing of any radio, phonograph, sound amplifying device or musical instrument; or talking, singing or yelling in such a manner or with such volume, whether done in a vehicle or otherwise, as to annoy or disturb the quiet, normal comfort or repose of any person in any dwelling, hotel, motel or other type of temporary or permanent residence.~~
  - ~~b. Allowing any animal, including dogs, cats and birds, in a person's ownership, possession or control, to howl, bark or make other sounds which annoy or disturb the quiet, normal comfort and repose of any person in any dwelling or other type of residence.~~
  - ~~c. The firing, discharge or explosion of or from any gun, fireworks or other combustible substance in such manner as to annoy or disturb the quiet, normal comfort or repose of any person in any dwelling or other type of residence unless doing so under a written permit obtained from the city.~~~~

- d. ~~The use of any automobile, truck, motorcycle, motor vehicle or motor vehicle equipment in such manner as to annoy or disturb the quiet, normal comfort or repose of any person in any dwelling or other type of residence.~~
- e. ~~The sounding of any horn, whistle, bell, siren or signaling device except as a danger warning or as used by emergency vehicles in such manner as to annoy or disturb the quiet, normal comfort or repose of any person in any dwelling or other type of residence.~~
- f. ~~The operation of a mechanical repair site or construction site where the emitted noise would annoy or disturb the quiet, normal comfort or repose of any person in any dwelling or other type of residence, unless that operation is of an emergency nature.~~

~~(b) *Permits for temporary variances.*~~

- ~~(1) Any person desiring relief from any provision of subsection (a)(1) of this section shall apply for a permit to cause or create a noise which would otherwise be in violation of such section. Applications for permits must be made in writing to the city manager and shall contain information which demonstrates that bringing a source of sound or activity for which the permit is sought into compliance with this section would constitute an unreasonable hardship on the applicant, on the community or on other persons.~~
- ~~(2) In determining whether to grant an application for such permit, the city manager, in consultation with the chief of police, shall balance the hardship to the applicant, the community and other persons arising from not granting the permit, against the adverse impact on the health, safety, welfare and comfort of persons potentially affected by the granting of such permit, the adverse impact on property affected and other adverse impacts which are perceived to be likely or probable of occurrence from granting such permit. The decision of the city manager as to the grant or denial of any such permit shall be final.~~
- ~~(3) If such permit is tentatively approved, the applicant shall be responsible for publishing in a newspaper having general circulation within the city limits, a public notice of the application for such permit. Such notice shall provide information as to the location and type of activity requiring the permit, and shall indicate that if any parties wish to protest the granting of such permit, they may do so by filing a statement in writing with the city manager on or before the fifth day following the date of public notice. Permits shall not be granted until the applicant submits an affidavit to the city manager showing the dates that such publication was made, and the time period for receiving comments as to such application has elapsed. In granting or denying a permit, the city manager shall place in the public records a copy of the decision and the reasons for granting or denying any request for a permit under this section.~~

**16-32. Definitions.**

For the purpose of this section, the following words and phrases are defined below unless it shall be apparent from the context that a different meaning is intended:

*Construction* shall mean on-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities including, but



not restricted to, clearing of land, earth moving, blasting, landscaping, mixing or pouring concrete, and the operation of vehicles or equipment in connection with such activities.

*Disturbing noise* shall mean noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of an area.

*Emergency work* shall mean any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

*Motor vehicle* shall mean any vehicle propelled on land by a motor, including but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts automobiles, motorcycles, or buses. It shall exclude trains and emergency response vehicles such as police, fire and rescue vehicles.

*Noise control officer* shall mean any police officer or other person so designated by the city manager.

*Occupied residential structure* shall mean any structure that is occupied for residential use or that reasonably appears to be occupied for residential use; it is not necessary that a person be inside the structure at the time an unreasonably loud or disturbing noise is caused or created.

*Person* shall mean any individual, association, partnership or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

*Unreasonably loud noise* shall mean noise which is substantially incompatible with the time and location where created or heard to the extent that it brings about an actual or imminent interference with peace, rest, or good order.

Technical terms:

- (1) *A-weighted sound level*: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- (2) *Decibel (dB)*: A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- (3) *Sound*: An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression, and

rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

- (4) *Sound pressure level*: 20 times the logarithms to the base 10 of the ratio of the root mean squared (RMS) sound pressure to the reference pressure of 20 micronewtons per square meter.
- (5) *Sound-level meter*: An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting network used to measure sound pressure levels.
- (6) *Sound level*: The weighted sound pressure level obtained by the use of sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute Specifications for sound level meters (ANSI s1.41971 or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- (7) *Slow response*: A measuring technique to obtain an average value when measuring a noise level that fluctuates over a range of four dB or more. By way of illustration only, a sound level meter set on "slow response" would record a sound level between two and six decibels less than the reading for a steadying signal of the same frequency and amplitude when a tone of 1,000 Hz and for a duration of 0.5 seconds is applied.
- (8) *Amplified sound*: Any sound using amplifying equipment, whose source is outside or whose source is inside and the sound propagates to the outside or other dwellings or interior locations under separate ownership or occupancy.

**Sec. 16-33. Exceptions.**

The following are exempt from the provisions of this article:

- ~~(1) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of the government, from 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends provided, all equipment is operated in accordance with the manufacturer's mufflers and noise reduction equipment in use and in proper operating condition.~~
- ~~(2) Noises of safety signals, warning devices, emergency pressure relief valves and all church bells.~~
- ~~(3) Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.~~
- ~~(4) Any noise resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the city in accordance with this article.~~

~~Regulation of noises emanating from operations under permits shall be according to the conditions and limitations stated on the permits.~~

~~(5) — Unamplified and amplified sound at street fairs, street festivals and other public street exhibits or activities conducted by or specifically authorized by the city manager or city council.~~

~~(6) — All noises coming from the normal operations of properly equipped aircraft (not including model aircraft).~~

~~(7) — All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reduction equipment which is in good and effective working order.~~

~~(8) — Noise from lawfully authorized public fireworks displays.~~

~~(9) — Lawnmowers and agricultural equipment used between the hours of 7:00 a.m. and 9:00 p.m. when operated with all the manufacturer's standard mufflers and noise reduction equipment in use and in proper operating condition.~~

~~(10) — Musical accompaniment to military ceremonies that is taped outdoor music, or music played with instruments not electronically amplified, provided such musical accompaniment lasts ten minutes or less.~~

### **16-33. Noise Measurement.**

For the purpose of determining dB(A)'s as referred to in this Article, sound levels shall be measured on the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute (ANSI) or its successor body.

All measurements shall be taken at or within the nearest residential property line occupied by the complainant, unless otherwise stated. For multifamily structures, including apartments, condominiums, or other residential arrangements where boundary lines cannot readily be determined or do not exist, measurements shall be taken:

- (1) From any point abutting the exterior of the complainant's residential unit; or
- (2) From any point on the interior of the complainant's residential unit if taking an exterior measurement is impractical or if the noise complained of is emanating from an adjoining unit.

The sound measurement shall be averaged over a period of one minute for purposes of determining the sound level (the "measurement period"). It shall be a violation of this ordinance for the averaged sound measurement to exceed the prescribed dB(A), or for any sound or noise to exceed the prescribed dB(A) level by three or more decibels at any time during the measurement period.

#### **16-34. Exceptions.**

The following acts and activities are exempt from the provisions of this Article unless such acts produce a risk of serious and unnecessary bodily harm:

- (1) *Emergency Work.* Emergency work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril. This emergency exception includes maintenance, backup or upkeep (“maintenance”) strictly necessary to keep emergency equipment, such as generators, in operating order as prescribed by the manufacturer, provided such maintenance is done only on weekdays between the hours of 9:00 a.m. and 4:00 p.m. sounds created do not exceed 80 dB(A), the equipment is maintained as far from the property line as reasonably possible to serve its purpose, and the equipment has all the manufacturer’s standard mufflers and noise reducing equipment intact.
- (2) *Athletic Events.* Sound emanating from outdoor athletic events scheduled by the City; educational; religious, or other institutions; or organized sports leagues.
- (3) *Safety Signals.* Noise of safety signals, warning devices and emergency pressure relief valves, provided such signals are used in a manner consistent with promoting public health and safety.
- (4) *Religious Bells.* Noise resulting from the operation of religious bells or chimes.
- (5) *Emergency Vehicles:* Noise resulting from any authorized emergency vehicle.
- (6) *Public Demonstrations:* Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law, or for which a local permit has been granted by the city, provided such activity is of a temporary duration lasting not longer than two hours during any 24-hour period. Regulation of noise emanating from activities under permit shall be according to the conditions and limits stated in this Article and according to any additional conditions stated on the permit.
- (7) *City Sanctioned on Sponsored Events.* Unamplified and amplified sound at street fairs community concerts, other celebrations and events, provided that such event is sponsored or sanctioned by the city.

- (8) *Noisemakers and Pyrotechnics.* Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to G.S. Chapter 14.
- (9) *Aircraft.* All noises coming from the normal operations of property equipped aircraft, but not including scale model aircraft.
- (10) *Lawn Mowers and Landscaping Equipment.* Lawn mowers, landscaping equipment, and agricultural equipment used between the hours of 7:00 a.m. and 9:00 p.m. on Monday through Friday and between the hours of 9:00 a.m. and 9:00 p.m. on Saturdays and Sundays when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition. Typical and routine work to ready a golf course for play beginning at 6:00 a.m. during the months of April through September and at 7:00 a.m. during the months of October through March. Typical and routine work includes the mowing, blowing, and raking of all of the course's playing surfaces, using equipment operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition. Typical and routine work does not include the use of chainsaws, chippers, shredders, or equipment that is used on a sporadic, irregular basis.
- (11) *Marching Bands.* Practice sessions or performances by marching bands.
- (12) *Railroads.* Noise from trains and associated railroad rolling stock when kept in proper repair and operated in the manner for which and in which it was created.
- (13) *Operations of Local Government Employees.* Noise created by the normal operations of the city government, including the work of its contractors.
- (14) *Unamplified Recreational Noise.* Unamplified sound originating from recreational activities at public or private recreational, civic, or community clubs, and religious institutions, when such noise is created by patrons and/or guests during the legitimate operations of the establishment between the hours of 7:00 a.m. through 9:00 p.m.
- (15) *Refuse Collection.* Operating a front-end loader or other truck for refuse collection Monday through Saturday between the hours of 7:00 a.m. and 8:00 p.m.
- (16) *Construction Work.* Performing construction work or operating construction machinery Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. or

between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays and holidays which are observed by the city or state.

- (17) *Garages*: Noises created by the ordinary business activities of garages or service stations between the hours of 7:00 a.m. and 9:00 p.m.

### **16-35. Prohibited Sounds.**

The following actions are hereby declared to be unreasonably loud and disturbing noise in violation of section 16-31, except as provided in section 16-34. This enumeration shall not be construed to be an exclusive list of actions which violate section 16-31, nor shall satisfying any requirements of this section render a sound in itself reasonable:

- (1) *Horns or signal device*. The sounding of any horn or signal device on any automobile, motorcycle, bus, or other motor vehicle, except as a warning or danger signal; the creation of any unreasonably loud or harsh sound by means of any such horn or signal device, whether or not such device is on any vehicle, and the sounding of any such device for an unnecessary or unreasonable period of time.
- (2) *Gongs, bells, and sirens*. The use of any gong, bell, or siren upon any motor vehicle.
- (3) *Steam whistle*. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.
- (4) *Exhaust discharge*. The discharge into the open air of the exhaust of any steam or engine, stationary internal combustion engine, motor vehicle, or motorboat engine, except through a muffler or other device which effectively prevents unreasonably loud and disturbing or explosive sounds therefrom.
- (5) *Compressed air devices*. The use of any mechanical device operated by compressed air unless the sounds created are effectively muffled and reduced.
- (6) *Chimes, bells, gongs, attached to buildings*. The sounding of any chime, bell, or gong attached to any building or premises which disturbs the quiet or repose of any person in the vicinity thereof.
- (7) *Vendors*. The shouting and crying of peddlers, barkers, hawkers, and vendors which disturbs the quiet and peace of a residential neighborhood.

- (8) *Pyrotechnics*. The firing, discharge or ignition of squibs, firecrackers, gunpowder, or other pyrotechnic, except with a permit.

**16-36. Sounds impacting residential life.**

Except provided in section –105 (exceptions) or 16-109 (relating to amplified noise), it shall be unlawful for anyone to create or cause a sound that exceeds 60 dB(A) affecting any occupied residential structure or unit other than the unit occupied by the person creating the sounds.

**16-37. Motor vehicles.**

It shall be unlawful to operate or allow the operation of any motor vehicle in the city:

- (1) By engaging in operations which create unreasonably loud and disturbing noises, or
- (2) By playing any radio, tape player, compact disc player or other sound-making device or instrument from within the motor vehicle so that the sound is plainly audible 30 feet away from the vehicle. This subsection shall not apply to motor vehicles used for business or political purposes which, in the normal course of conducting business, use sound-making devices or sound-amplification equipment, so long as such devices or equipment do not register more than 60dB(A) at or on the edge of the pavement.

**16-38. Amplified sound.**

Except in accordance with a permit obtained from the city, or as provided in section 16-39, the following shall be unlawful:

- (1) *Places of public entertainment*. As to places of public entertainment, including, but not limited to, restaurants, taverns and bars, coffeehouses and private clubs, to operate, or allow the operation of any sound amplification equipment so as to create sounds registering more than 65 dB(A) affecting occupied residential structures or units between 9:00 p.m. and 2:00 a.m. or 40 dB(A) between 2:00 a.m. and 9:00 a.m.
- (2) *Advertising*. Operate or allow the operation of any sound amplification equipment for advertising purposes or otherwise to attract customers so as to cast sounds which are unreasonably loud and disturbing, or which register more than 60 dB(A) at or on the boundary of the edge of pavement of any public right-of-way.
- (3) *Public right of ways*. Operate or allow the operation for personal use of any sound amplification equipment on the public right of way, including streets or sidewalks, or in

the public parks so as to produce sounds registering more than 60 dB(A) at any point 50 feet or more from any electromechanical speaker emitting sound between the hours of 9:00 a.m. and 9:00 p.m. or 50 dB(A) 50 feet or more from any electromechanical speaker between the hours of 9:00 p.m. and 9:00 a.m.

- (4) *Other Amplified Sounds.* As to sounds other than those listed in subsections (1)-(3) of this section, to operate or allow the operation of any sound amplification equipment so as to create sounds registering 60 dB(a) or greater affecting occupied residential structures or units between the hours of 9:00 a.m. and 9:00 p.m., or 50 dB(A) or greater between 9:00 p.m. or 9:00 a.m.

### **16-39. Permits.**

- (a) *Application.* Application for a permit under section 16-35(8) or for additional amplification under section 16-38 shall be submitted in writing to the police department at least 15 working days in advance of the planned use. The application shall designate an individual person or persons who shall be:
- (1) In control of the amplification in the case of permit for section 16-38.
  - (2) In control of the firing or discharge of gun or pyrotechnics in the case of a permit under section 16-35(8); and
  - (3) Responsible for seeing that the activity complies with the terms of the permit.
- (b) *Notice of tentative approval.* In the case of permits for additional sound amplification pursuant to section 16-38, if the permit is tentatively approved, the applicant shall be responsible for mailing or otherwise delivering to the occupants of each property within a 1,000-foot radius of the property or facility for which the permit has been granted, as shown on the county tax maps, a notice on a form provided by the noise control officer showing the date and hours of the event. The notice shall be delivered at least 72 hours in advance of the event. The permit will not be approved and issued by the city until the applicant submits an affidavit to the noise control officer confirming that such notices have actually been mailed or otherwise delivered.
- (c) *Number of hours.* In the case of excess amplification under section 16-38, no permits shall be issued which shall have the effect of allowing more than 20 hours of excess amplification per year at any place of public entertainment or ten hours of excess amplification at any other location. Permits shall be tentatively approved and



subsequently granted by the noise control officer in the order of receipt unless permits for 20 or more hours have previously been issued for the same or other locations within a 1,000-foot radius of the facility in the same calendar year, in which event the applicant shall elect whether to limit his request so as to keep the year's accumulated hours of excess amplification in that location between 20 hours or select another location.

- (d) *Not permitted in residentially occupied boundaries.* In no event shall a permit be granted which allows the creation of sounds registering more than 70 dB(A) at any point on or within the boundary line of the nearest residentially occupied property. For multifamily structures, including apartments, condominiums, or other residential arrangements, and for structures where boundary lines cannot readily be determined or do not exist, measurements shall be taken from any point abutting the exterior of the residential unit.
- (e) *Denial; exceptional permit.* If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, the applicant shall promptly submit a copy of the denied permit application together with a short statement of the reasons the applicant believes he or she is entitled to a permit to the city manager. The city manager shall have the discretion to grant an exceptional permit waiving locational, time, and/or dB(A) requirements, upon the determination by the city manager that the applicant has made a substantial showing of legal entitlement. Any such exception permit shall be promptly reported to the city council.

**16-40. Responsible party.**

- (a) Persons responsible for remedying any violation under this Article or to be held liable for any civil or criminal penalties under section 16-112 shall be any person who creates or assists in creating the unreasonably loud, disturbing noise, other violation. A person shall be deemed to create or assist in creating the unreasonably loud, disturbing noise or other violation if that person owns, manages, or operates any residence, business, or location at which the noise is generated.
- (b) When the noise which violates this Article, is emanating from a motor vehicle, the violator is the operator of the motor vehicle, and/or the employer of the operator if the motor vehicle is being used from commercial purposes, and/or the person which possesses or controls the motor vehicle used by the operator if the motor vehicle is being used for commercial purposes.

- (c) When the noise which violates this Article is emanating from construction activities, the violator is the individual doing the activity and/or their employer, the general contractor on site, or the owner of the property.

**16-41. Enforcement and penalties.**

- (a) *Civil penalty.* Violation of this Article shall subject the offender(s) to a civil penalty in the amount of \$100.00. In the event there is more than one violation within anyone-year period, then the civil penalty shall be increased for each additional violation over one during such period as follows:

Second offense within one year: \$250.00

Third offense within one year: \$500.00

Fourth offense within one year: \$750.00

Fifth and any subsequent offense within one year \$1,000.00

- (1) Once the one-year period has run from the “first violation” the next violation shall be considered to be a first violation for the purposes of establishing a new one-year period.

- (2) Violators shall pay any issued penalty within 72 hours of the issue date and time. The city attorney, or designee, is authorized to file suit on behalf of the city to collect any unpaid citations, and the police chief, or designee, is authorized to verify and sign complaints on behalf of the city in such suits. A police officer, animal control officer enforcing subject matter jurisdiction, or other employee duly authorized to enforce the noise control ordinances may issue a citation for violations of this Article.

- (3) Appeal of a civil penalty amount may be made to the City Manager or designee within 30 calendar days from the date of issuance by filing an appeal stating with specificity the grounds for the appeal and the reasons the penalty should be reduced or abated. In considering the appeal, the penalty or fine, the City Manager or designee may consider the following:

- a. The seriousness of the violation
- b. Any action taken by the violator to correct the violation
- c. The cost of the action to correct the violation; and

- d. Any previous violations committed by the violator on the same or different site
- (b) *Remedies*. This article may also be enforced through equitable remedies issued by a court of competent jurisdiction.
- (c) *Criminal penalty*. In addition to, or in lieu of, such civil penalties or other remedies, violation of this article shall constitute a misdemeanor.

**Section 2.** The ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 19<sup>th</sup> day of September, 2022.

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O. Stanhope Anthony, III  
Mayor

ATTEST:

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Carol Williams  
City Clerk

APPROVED AS TO FORM:

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Interim City Attorney

City of Shelby  
Agenda Item Summary  
August 15, 2022  
City Hall Council Chamber

Agenda Item: G

City Manager's Report

I will report to Mayor and Council on a number of ongoing projects and issues. The projects and issues reported upon are intended to be for your information and do not necessarily require action by Council.

Agenda Item: H

Council Announcements and Remarks

Agenda Item: I

Closed Session

- 1) To consult with an attorney in order to preserve the attorney client privilege pursuant to N.C.G.S.143-318.11(a)(3)

J. Adjournment:

To adjourn a meeting of City Council, a majority of the Council members must vote for a motion to adjourn.

- 1) Motion to adjourn