

ORDINANCE NO. 33-2024

**AN ORDINANCE TO AMEND THE CITY OF SHELBY CODE OF ORDINANCE TO
CREATE THE UPTOWN SHELBY SOCIAL DISTRICT**

WHEREAS, pursuant to N.C. Gen. Stat. § 160A-205.4 the City may adopt an ordinance designating one or more social districts for use in accordance with N.C. Gen. Stat. § 18B-300.1; and

WHEREAS, under the above laws, the North Carolina General Assembly authorized municipalities to designate social districts within the city limits to permit the sale and consumption of alcoholic beverages both within and outside of designated establishments and along the streets of the social district; and

WHEREAS, the City partnered with Uptown Shelby Association, Inc. to propose a social district serving the uptown area within the designated map; and

WHEREAS, the City believes that the creation of a social district will increase the economic vitality and growth of the uptown area of the City.

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

Section 1. The Uptown Shelby Social District shall be established and limited to the area depicted on the map dated and found on the City's website or upon inspection with the City Clerk. The Uptown Shelby Social District is restricted to the following Exhibit A. Except as specifically stated herein, alcohol is prohibited on the Carolina Harmony Trail. The Section of the Carolina Harmony Trail beginning at West Marion and North Morgan Street heading North to Sumter Street is specifically excluded from the Social District. All other sections of the Carolina Harmony Trail heading from West Marion to Blanton Street is hereby incorporated into the Social District.

Section 2. The Social District shall be restricted to Monday through Sunday, from 10am Eastern Standard Time until 10:00pm Eastern Standard Time.

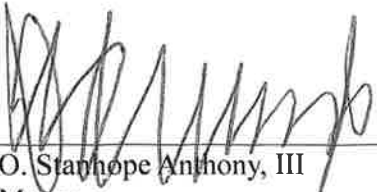
Section 3. Staff shall establish an approved management and maintenance plan to be submitted to the Alcoholic Beverage Control (ABC) Commission for final approval. The plan shall be maintained and posted, along with a rendering of the boundaries of the social district and days and hours during which alcoholic beverages may be consumed in the social district on the City's website.

Section 4. This ordinance shall be effective on July 1, 2024.

Adopted on this 15th day of April, 2024.


Effective July 1, 2024

Ordinance No. 33-2024
April 15, 2024
Page 2



O. Stanhope Anthony, III
Mayor

ATTEST



Carol Williams
City Clerk

APPROVED AS TO FORM



Jason Lunsford
City Attorney

ARTICLE IV SOCIAL DISTRICT.

SECTION 10-141 Purpose and Intent.

- (a) Pursuant to the provisions of N.C. Gen. Stat. § 160A-205.4, a municipality may by ordinance, designate one or more social districts within the city for use in accordance with N.C. Gen. Stat. § 18B-300.1. The social district(s) established by the City are described herein, along with the days and hours of operation.
- (b) The Social Districts shall be created, designated, and managed in accordance with the requirements contained in N.C. Gen. Stat. § 160A-205.4 and Chapter 18B.
- (c) The City has established an approved management and maintenance plan(s). The plan(s) are maintained and posted, along with a rendering of the boundaries of the social district and days and hours during which alcoholic beverages may be consumed in the social district on the City's website.
- (d) Permittees shall be responsible for operating its business in accordance with all state and city laws, ordinances, rules, and regulations governing social districts.
- (e) The provisions of Section 30-5 – "Sale, use of alcoholic beverages on city property" shall remain in full effect.
- (f) To the extent required by applicable State law, any portion of the social district herein established that overlaps with a premise(s) subject to a permit for on-premises consumption of alcohol issued by the North Carolina Alcoholic Beverage Control Commission for a special event shall be suspended during the event to the extent the social district and the permitted premises are in conflict.

SECTION 10-142 Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Customer means a person who purchases an alcoholic beverage from a permittee that is in a social district.

Non-permittee means and refers to a business that is located in a social district and does not hold any ABC permit.

Open container means any alcoholic beverage where the seal of the original manufacturer is broken or an alcoholic beverage that is possessed in a container other than the unopened manufacturer's container. (State law reference N.C. Gen. Stat. § 18B-300).

Permittee means and refers to an establishment holding any of the following ABC permits issued by the North Carolina Alcoholic Beverage Control Commission:

1. An on-premises malt beverage permit issued pursuant to N.C. Gen. Stat. § 18B-1001(1).
2. An on-premises unfortified wine permit issued pursuant to N.C. Gen. Stat. § 18B-1001(3).
3. An on-premises fortified wine permit issued pursuant to N.C. Gen. Stat. § 18B-1001(5).
4. A mixed beverages permit issued pursuant to N.C. Gen. Stat. § 18B-1001(10).
5. A wine shop permit issued pursuant to N.C. Gen. Stat. § 18B-1001(16).
6. A distillery permit issued pursuant to Gen. Stat. § 18B-1100(5).

Persons means and refers to an individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.

Premises means and refers to a fixed permanent establishment, including all areas inside or outside the permitted establishment, where the permittee has control through a lease, deed, or other legal process.

Social district means and refers to a designated area established under Section ___ and is managed in accordance with the requirements contained in requirements contained in N.C. Gen. Stat. § 160A-205.4 and Chapter 18B.

SECTION 10-143 Established and Designated Social District.

The Social District shall be created, designated, and managed in accordance with requirements contained in N.C. Gen. Stat. § 160A-205.4 and Chapter 18B. Participation is voluntary and within the discretion of the property owner(s) and at no time is a non-permittee owner located within the boundaries of the Social District required to allow alcohol within its premises.

The Uptown Shelby Social District shall be established and limited to the area depicted on the map dated and found on the City's website or upon inspection with the City Clerk. All markings on the map shall be posted clearly delineating the boundaries of the social district and updated from time to time as necessary in coordination with the City's approved management and maintenance plans.

- (a) The Social District shall be restricted to the following days and times:
 - i. The Social District shall be restricted to Monday through Sunday, from 10am Eastern Standard Time until 10:00pm Eastern Standard Time.
 - ii. At all other times in which alcohol may be sold or consumed, such activities are restricted to the state laws and ordinances already prescribed and enforced. No alcohol shall be sold in a social district cup outside of the permitted hours.

- iii. Patrons may not leave a permittee and enter the social district with any open container outside of the stated hours unless a special permit is issued by the City.
- (b) Any alcoholic beverage sold and purchased for consumption within the Social District shall:
- i. Only be consumed within the boundaries depicted on the Social District Map, and
 - ii. Be disposed of before the person in possession of the alcoholic beverage exists the Social District.
 - iii. All containers must be discarded upon entering any permittee or non-permittee not participating or any permittee that may be participating but not allowing alcohol purchased from a different permittee (Sold Here & No Outside Beverage).

SECTION 10-144 Participation in General.

All property owners located within the Social District may voluntarily participate and participation shall be denoted by placing a corresponding sign on the property window. Property owners shall pick from one of four signs: (1) Sold Here, (2) Welcomed Here, (3) Not Permitted Here, and (4) Sold Here & No Outside Beverage. All signs shall be provided by the City or its designee and be uniform under the City's published plan. The following requirements apply to all property owners located within the Social District:

- 1. A permittee may be included in the Social District even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees in the social district.
- 2. A permittee business may elect to allow a customer to bring and consume an alcoholic beverage into their establishment that was purchased at a different participating permittee within the social district meeting all the requirements set forth under this Article.

SECTION 10-145 Requirements for Permittee Sales, Sales of Open Containers.

Permittee businesses must comply with the following requirements:

- 1. The permittee shall only sell and serve alcoholic beverages on its licensed premises.
- 2. The permittee shall only sell an open container of an alcoholic beverage for consumption in the Social District and to be consumed off premises in a container meeting all the following requirements as provided within the Social District Plan:
 - a. The container clearly identifies the permittee from which the alcoholic beverage was purchased.

- b. The container clearly displays the approved Social District Logo.
 - c. The container is not comprised of glass.
 - d. The container displays the following statement, "Drink Responsibly – Be 21" in no less than 12-point font.
 - e. The container shall not hold more than 16 fluid ounces.
 - f. No alcohol shall be sold in a social district cup outside of the permitted hours.
3. Any sale of an alcoholic beverage for which consumption by the customer is not for the purpose of entering into the Social District may be poured and consumed within any container the business desires so long as the business meets all applicable laws and regulations.
 4. Nothing in this subsection or within this Article shall be construed to authorize the sale and delivery of alcoholic beverages in excess of the limitations set forth in N.C. Gen. Stat. § 18B-1010.

All containers must be discarded upon exiting the social district

boundaries. **SECTION 10-146 Requirements for non-permittee.**

1. All non-permittee businesses that are part of the Social District and that allow customers to bring alcohol into their premises (Welcomed Here) shall clearly post signage on any exits that do not open to the Social District indicating that alcoholic beverages may not be taken past that point.
2. A participating non-permittee business shall display the uniform sign at all times during the times provided under Section ___ Established and Designated Social District.
3. During the days and hours when the Social District is active as provided for within this Article, a non-permittee business that allows customers to bring alcoholic beverages onto its premises (Welcomed Here) shall allow law enforcement officers to access to the areas of the premises accessible by customers.

SECTION 10-147 Restrictions on consumption of alcohol within a social district.

1. Only alcoholic beverages purchased from a permittee located within the Social District may be consumed within the Social District.
2. Only open containers meeting the requirements established within this Article and provided by a designated permittee are allowed within the Social District except for open containers sold by and consumed on the premises of the permittee, or under the existing Sidewalk Café ordinance 10-135.
3. No person may bring an alcoholic beverage into a non-permittee business that is not displaying the uniform sign or is displaying the sign "Not Permitted Here."

4. Open containers of alcoholic beverages shall only be possessed and consumed within the hours established under this Article unless consumed on permittee's premises in compliance with all applicable permits and laws or a special permit is issued by the City.
5. Nothing in this Article or subdivision shall be construed as authorizing the sale and delivery of alcoholic beverage drinks in excess of the limitation established in N.C. Gen. Stat. § 18B-1010.
6. All containers must be discarded upon exiting the social district boundaries.

SECTION 10-148 Enforcement.

Code enforcement shall notify a permittee or non-permittee business owner in writing by certified mail who violates or fails to comply with the provisions of this Article. Violators shall be subject to one or a combination of the following:

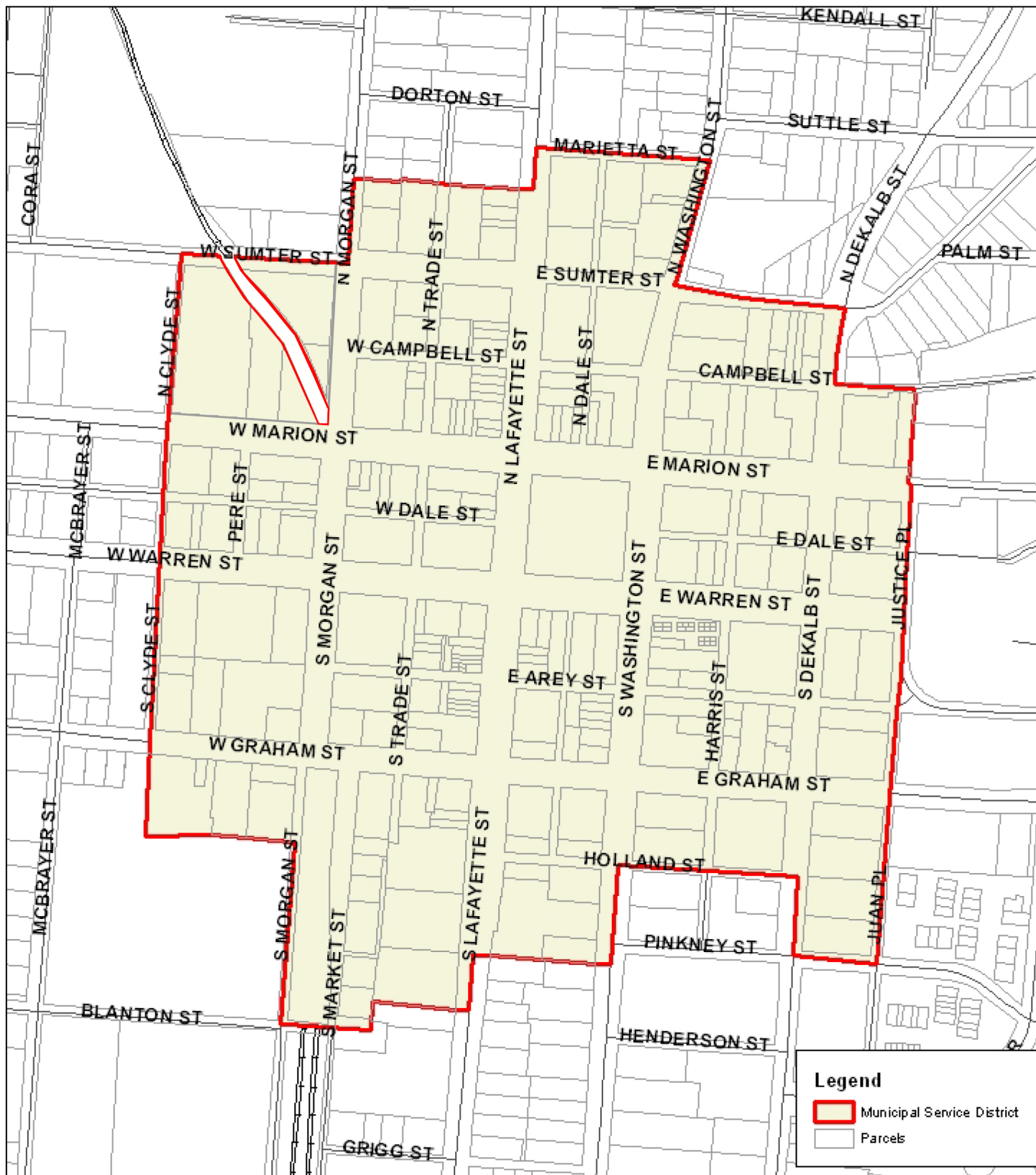
- (a) The City specifically retains the right to revoke or suspend a permit any time it deems such revocation to be in the best interest of the public health, safety or welfare, or where the permittee has failed to comply with applicable city requirements or is found to have provided false or misleading information in the permit application.
- (b) Civil penalty of \$100 per occurrence for any permittee or non-permittee, which may be recovered by the City in a civil action in the nature of a debt if the permittee or non-permittee does not pay the penalty within 15 days from the date the violator is notified of the penalty.
- (c) Any person who violates or fails to comply with the provisions of this Article is guilty of a class 3 misdemeanor as provided by N.C. Gen. Stat. § 160A-175 and N.C. Gen. Stat. § 14-4.
- (d) Any person who aids, abets, assists in, or contributes to a violation of this Article shall be punished as an infraction as provided by N.C. Gen. Stat. § 14-3.1.



UPTOWN SHELBY SOCIAL DISTRICT



Map Information:
Datum: NAD 1983
Coordinate: State Plane
North Carolina (Meter)
Projection: Lambert Conformal Conic
US National Grid
Grid Zone Designation (GZD): 17S
100,000m Square ID: MVMU



Scale 1:4,800 1 inch = 400 feet 0 200 400 800 Feet

That the Code of Ordinances, City of Shelby, North Carolina, is hereby amended by adding a new Article (Article IV), under Chapter 10 section, to be numbered Sec. 10-140, which said section reads as follows:

ARTICLE IV SOCIAL DISTRICT.

SECTION 10-141 Purpose and Intent.

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Code enforcement shall notify a permittee or non-permittee business owner in writing by certified mail who violates or fails to comply with the provisions of this Article. Violators shall be subject to one or a combination of the following:

- (a) The City specifically retains the right to revoke or suspend a permit any time it deems such revocation to be in the best interest of the public health, safety or welfare, or where the permittee has failed to comply with applicable city requirements or is found to have provided false or misleading information in the permit application.
- (b) Civil penalty of \$100 per occurrence for any permittee or non-permittee, which may be recovered by the City in a civil action in the nature of a debt if the permittee or non-permittee does not pay the penalty within 15 days from the date the violator is notified of the penalty.
- (c) Any person who violates or fails to comply with the provisions of this Article is guilty of a class 3 misdemeanor as provided by N.C. Gen. Stat. § 160A-175 and N.C. Gen. Stat. § 14-4.
- (d) Any person who aids, abets, assists in, or contributes to a violation of this Article shall be punished as an infraction as provided by N.C. Gen. Stat. § 14-3.1.