

LEGISLATION creating the SHELBY COUNTY PLANNING COMMISSION of
SHELBY COUNTY, ALABAMA

Shelby County Department of Development Services
1123 County Services Drive, Pelham, Alabama 35124
205-620-6650

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AN ACT

To create the Shelby County Planning Commission: to provide for the organization membership, powers, personnel, jurisdiction, and financial and legal status of such commission: to authorize the commission to make subdivision regulations. a master plan, and to adopt zoning regulations for the development of Shelby County: to provide for an election in each beat prior to the application of such zoning authority of the commission in each beat: to grant the commission power to zone certain areas within the county and provide a procedure for the amendment of zoning regulations; to prohibit zoning regulations from being retroactive: to provide remedies for the enforcement of the provisions of this. Act; to provide exceptions to such zoning regulations and for appeals from the decisions of the commission.¹

Be It Enacted by the Legislature of Alabama:

Section 1. Creation of Planning Commission of Shelby County.

There is hereby created a Planning Commission for Shelby County. Alabama which commission shall be appointed as hereinafter provided and shall have responsibilities and duties as are stated herein. The term "commission" as used herein shall mean the Shelby County Planning Commission and the term "county commission" as used herein shall mean the Shelby County Commission or its Successors.

Section 2. Personnel of the Shelby County Planning Commission.

The Commission shall be composed of seven members, each of whom shall be a qualified elector in and an actual resident of Shelby County. The Shelby County Commission may appoint as one of the seven members a person engaged in the sale of real estate to serve on the planning commission. All members shall be appointed by the Shelby County Commission, and shall serve at the pleasure of the Shelby County Commission. Each member shall serve a term of six years or until a successor is duly appointed and qualified. Prior to taking office each member shall subscribe to an oath as provided by law for the public officials and the same shall be recorded in the office of the judge of probate of Shelby County. The original members of the commission shall draw lots to determine the period of time each is to serve and the terms of two shall expire two years from the date of the organization of the commission; and the terms of two others shall expire four years from the date of the organization of the commission; and the terms of three others shall expire six years from the date of the organization of the commission. In the event of a vacancy on the commission, the same shall be filled as in the case of the original appointment. All members shall be reimbursed reasonable and necessary expenses incurred and may be paid an expense allowance by the county commission not to exceed actual expenses. Members shall hold no other county office and expenses of members shall be paid from the general fund of Shelby County.

¹ The creation of the Shelby County Planning Commission of Shelby County, Alabama and its authority is provided for by Act Number 82-693 of the Legislature of Alabama which was approved July 2, 1982. The legislation has since been amended on various occasions. This text incorporates the original act and subsequent amendments.

Section 3. Jurisdiction of Commission.

The jurisdiction of the commission shall extend to all areas of the county outside the boundaries of municipal corporations, unless a municipality expressly requests by resolution to have the jurisdiction of the planning commission extend into its corporate area.

Section 4. Organization and Rules.

The commission shall elect its chairman and create and fill such other offices as it may determine. The term of chairman shall be for one year, with eligibility for reelection. The commission shall normally hold at least one regular meeting each month. It shall adopt bylaws for the transaction of business and shall keep a record of its resolutions and transactions of business, all of which shall be a public record.

Section 5. Staff and Finances.

The county commission may appoint, promote, demote, and remove employees of the commission as it deems necessary. The county commission may also contract with county or city planners, engineers, architects, and other consultants and with any local, state, or federal agency for such services as the commission may require. The county commission may cooperate with and accept funds from Federal, state and local public or semi-public agencies, private individuals or corporations, and may expend such funds and carry out such cooperative undertakings and contracts for necessary planning studies. The expenditures of the commission, exclusive of gifts, grants, or contract receipts, shall be within the amounts appropriated for the purpose by the county commission.

Section 6. General Power and Duties of the Commission.

It shall be the function and duty of the commission to make and maintain in an up-to-date manner a master plan of various areas of the county as and when deemed necessary by the commission and to adopt with the approval of the county commission appropriate zoning regulations as provided by Section 10 of this act for the physical development of Shelby County; provided, however, that the adoption of a master plan shall not be deemed a prerequisite to the administration and enforcement of the zoning regulations. Such plan and regulations with the accompanying maps, plats, charts, and descriptive material shall show the commission's recommendations for the use and development of the territory of the county. The zoning regulations shall also include a zoning plan for selected areas for the control of the height, area, bulk, location, and use of buildings and land. As the work of making the whole master plan and preparation of zoning regulation progresses, the commission may from time to time adopt and publish a part of parts thereof, any such part to cover one or more major sections or divisions of the county. The commission may from time to time amend, extend, or add to the plan or regulations as hereinafter provided. Nothing in this Act shall be construed to impair the right of eminent domain conferred on railroads and utilities, both public and private, or their right to construct, use and maintain structures reasonably required in the public service or their right to exercise authority conferred by statutes, franchises, certificates of convenience and necessity, licenses, easements, or conveyances.

Section 7. Purposes in View.

In the preparation of the master plan and zoning regulations, the commission shall make careful and comprehensive surveys and studies of the present conditions existing within the county with due regard to existing agricultural uses, to land by virtue of its fertility, proximity to water supplies, and other geographical features is particularly suited to agricultural uses, to neighboring municipalities, towns and villages, to the growth of subdivisions, to the general population growth of the county, and make adequate provision for traffic, recreational areas and industry, and other public requirements. The plan and zoning regulations should be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the county, which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, and should promote safety from fire, flood and other dangers, the healthful and convenient distribution of population, and the wise and efficient expenditure of public funds. The plan and regulations shall be a public record, but its purpose and effect shall be to aid the planning commission in the performance of its duties, including making recommendations to the county governing body and assisting cooperating with other federal, state and local agencies so as to achieve coordinated, adjusted, and harmonious development.

Section 8. Election to determine if beat is to be covered by the Master Plan and Zoning Regulations.

Except where jurisdiction has been obtained by the commission pursuant to Section 3, the master plan and zoning regulations provided by the commission shall not be applicable in any beat of Shelby County until the majority of the qualified electors of the beat voting in a special election have signified by their vote that they desire the authority of the commission, its master plan, and the zoning regulations to apply to their beat. The election must be held not less than 90 days or more than 120 days after a petition seeking the election is filed in the office of the judge of probate. The petition shall be signed by at least 15 percent of the electors who reside within the beat and who own real estate located in the beat. Notice of the election shall be given by three weeks' publication and posting notice in two public places within the beat. The cost of the election shall be paid from the general fund of Shelby County. The ballot shall be so worded as to give the voter the opportunity to vote either 'Yes' or 'No' as to whether the voter wishes the authority of the commission, its master plan, and the zoning regulations to apply to the beat. Only those qualified electors residing outside of the municipal limits and in the unzoned portion of a beat shall be permitted to vote or sign a petition calling for the election in the beat concerned. If a statement to this fact is not on the ballot and the petition, the ballot and petition are invalid. Boundaries of the established area approved for zoning by the qualified electors shall not be changed. Any property which is legally zoned as provided herein shall remain zoned and subject to the zoning authority of Shelby County and the Shelby County Planning Commission even if beat lines are changed to remove the property from the beat in which it was located at the time zoning became effective. Elections for the same beat shall not be held any more often than every 730 days. Notwithstanding the approval at any election of the extension of the authority of the commission and its zoning regulations to the beat, applications for preliminary subdivision plats which substantially comply with subdivision regulations and which were filed and pending prior to the certification by the probate judge of a petition for a zoning election as provided for herein shall vest in the applicant the right to proceed with the application process before the commission, and upon approval of the preliminary plat, the right to develop and complete the subdivision according to the plat without application of the zoning regulations to the plat; and any successor

in interest to the land made the subject of such plat shall have the right to use and develop such land in accordance with the plat and subdivision restrictions without the application of the zoning regulations to such land.

Section 9. Subdivision Regulations.

The commission with the approval of the county commission shall adopt a code of regulations applicable to the subdivision of land and plats of subdivisions shall not, after the adoption of such code of regulations, be accepted for filing and recording in the office of the judge of probate until they have been approved in a manner to be designated by the commission. The provisions of this section shall apply within the jurisdiction of the commission as specified in Section 3 of this act.

Section 10. Zoning; Grant of Power.

For the purpose of promoting the health, safety, morals, convenience, order, prosperity and general welfare of the county, the commission with the approval of the county commission is hereby empowered to divide the portion of the county within its zoning jurisdiction into districts of such number, shape and area as may be found best suited to carry out the purposes of this act, and to provide within such districts for standards relating to the use of the land and the types and kinds of structures that may be erected in such districts, and all home remodeling or modification in such districts. Such provision shall be made in accordance with a comprehensive plan for the area involved and shall be designed to lessen congestion in the streets and highway; to secure safety from fire, flood, panic and other dangers; to provide health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue mixed use of land; to facilitate the adequate provision of transportation, water supply, sewerage, schools, parks and other public requirements. Such provision shall be made with reasonable consideration, among other things, of the character of the land and district and its peculiar suitability for particular uses and with a view of promoting desirable living conditions, sustaining the stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of buildings; and encouraging the most appropriate use of land and buildings and structures throughout the jurisdiction of the commission. For the purpose of providing for the division of the territory into districts, consonant with the conditions provided in this section, the commission may make a single zoning plan for all the territory of the area which lies within its jurisdiction or may make and certify separate and successive zoning plans for parts of such territory which it deems suitable for urban and suburban development or which for other reasons it deems to have appropriate territorial unity for a zoning plan; and correspondingly any zoning regulations enacted by the commission may cover and include the whole territory lying within its jurisdiction or such territory as the commission deems to be appropriate territorial unit for a zoning plan.

Section 11. Publication of Notice of Proposed Change in Zoning Regulations.

Once zoning regulations have become applicable to a beat as provided by Section 8 hereof, such regulations shall not be changed until the proposed change has been published for three weeks in a newspaper of general circulation within the county together with a notice stating the time and place that the change in regulations will be considered by the commission, and stating further that at such time and place all persons who desire shall have an opportunity to be heard in favor of or

in opposition to such change in such zoning regulations. The change must be approved by the commission and the county commission.

Section 12. Zoning Regulations Shall not be Retroactive.

No zoning regulation adopted by the commission and county commission shall change any use to which land is being made at the time such zoning regulations become applicable in any beat.

Section 13. Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any subdivision is established, or land used in violation of this enactment or of any regulation made under the authority conferred hereby, the county attorney shall initiate any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion maintenance, or subdivision of the land or use of the land to restrain, correct, or abate such violation, or to prevent the occupancy of any such building, structure, subdivision or land or to prevent any illegal Act, conduct, business, or misuse in or upon any premises regulated under the authority conferred by this article. If the county attorney is successful in such proceedings, then, all court costs and reasonable attorney fees for time spent by the county attorney shall be assessed against the losing violator.

Section 14. Exceptions to Zoning Regulations.

The Commission may in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning regulations in harmony with its general purposes and interests and in accordance with general or specific rules adopted by the Commission. Anyone wishing to appeal from an existing zoning regulation may file a written petition stating the basis for such appeal whereupon the Commission shall fix a date for such hearing, giving notice as to the Commission may seem appropriate. and on such hearing the Commission shall have the following powers: (1) to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Commission or official in the enforcement of this article of any regulation adopted pursuant thereto; (2) to hear and decide on requests for special exceptions to the term of provisions of the regulations upon which such Commission is required to pass; (3) to authorize upon appeal in special cases such variance from the yard, open space, land use, bulk and height requirements of the regulation as will not be contrary to the public interest, where, owing to special conditions of the building site or land, a literal enforcement of the provisions of the regulation will result in unnecessary hardship. all in order that the spirit of the regulations shall be observed and substantial justice done.

Section 15. Appeals.

Any party aggrieved by any final judgment or decision of the commission may, within 15 days, request a review of the record by a five (5) member review board appointed by the Shelby County Commission, one member being the county planning director, one the county public works director, two experts in related fields of planning and one other member. This review board is

empowered to require that the planning commission reconsider its earlier decision. If such reconsideration is ordered, the planning commission may reconsider the previous record and any additional material, which the planning commission considers relevant. If upon reconsideration by the planning commission, any party remains aggrieved by any final judgment of the planning commission, any party may within 30 days thereafter appeal therefrom to circuit court as provided below. If no review by the five member review board is requested by any party aggrieved by any final judgment or decision of the commission, or reconsideration is not granted by the five member review board, then the aggrieved party may within 30 days thereafter appeal therefrom. The appeal shall specify the judgment or decision from which the appeal is taken and shall rest upon the contention that such zoning regulations or subdivision regulations in question are unreasonable, discriminatory, unconstitutional, or otherwise invalid, and such appeal shall be filed with and addressed to the circuit court having jurisdiction within the county where the affected property of the aggrieved party is located. In case of such appeal, the commission shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken.

Section 16. (repealed).

Section 17. Severability.

The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. Effective date.

This Act shall become effective upon the signature of the Governor