

AGENDA

Village of Shelby Planning Commission

Wednesday, September 29, 2021

218 N. Michigan Ave.

Shelby, MI 49455

Special Meeting – 5:30 P.M.



Agenda Topics:

1. Call to Order:
2. Roll Call:
3. Pledge of Allegiance:
4. Commission Administrative Business:
 - a. Williams&Works – Zoning Ordinance Update – General Provisions **D**
5. Reports:
 - a. None
6. Public Comment:
7. Member Discussion:
8. Adjournment:

AR- Action Requested
D- Discussion Item



Memorandum

Date: September 24, 2021

To: Ross Field, Chair, Shelby Planning Commission
Planning Commission Members

From: Brady Selner, Village Administrator

Subject: Zoning Ordinance Update – General Provisions

Information:

Andy Moore of Williams&Works will be at the Special Planning Commission meeting to continue the zoning ordinance rewrite. We will go through the General Provisions portion of the Ordinance. Graphics are not currently included in the draft but will be added later. The highlighted portions of the document are the areas where policy discussion by the Planning Commission is probably needed.

Supporting Documents:

Chapter 3 - General Provisions

CHAPTER 3. GENERAL PROVISIONS

SECTION 3.01. APPLICATION OF REGULATIONS

- A. Unless otherwise noted, the regulations in this Ordinance apply throughout the Village of Shelby and within each District. They shall be minimum regulations and shall apply uniformly to each class or kind of structure, land, or use.
- B. All buildings, structures, or land may be used, constructed, altered, or occupied only when in conformity with all of the regulations specified in this Ordinance for the District in which it is located in accordance with this Ordinance.
- C. Except as otherwise permitted by this Ordinance, after the effective date of this Ordinance, no building or other structure shall be altered:
 - 1. To accommodate or house a greater number of families than permitted by the Zoning District.
 - 2. To have narrower or smaller rear yards, front yards, or side yards, other than permitted.
- D. No yard or lot existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

SECTION 3.02. CLEARING OF LAND

Unless associated with a bona fide forestry, agricultural practice or public works project (such as the installation of utilities or other similar activities conducted by, or on behalf of the state, federal government, county, Village or the Township), it shall be unlawful for any person to engage in land clearing of over one (1) acre, including the stripping and removal of topsoil or existing vegetation, from any site, parcel, or lot within the Village of Shelby without first receiving appropriate development approval.

SECTION 3.03. EXCAVATIONS

No soil, sand, gravel, or other earth material shall be removed from any land within the Village of Shelby without Special Land Use approval, with the following exceptions:

- A. When the earth removal is incidental to an operation for which a building permit has been issued by the building official.

- B. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
- C. When the earth removal involves less than five hundred (500) cubic yards;
- D. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;
- E. The soil removal will not be in violation of any other Section of this Ordinance or other Village ordinance, Natural Resource and Environmental Protection Act of 1994, or any other applicable state or federal law.

SECTION 3.04. MAIN BUILDING OR PRINCIPAL USE

Except as may otherwise be noted in this Ordinance, each parcel shall contain only one (1) main building or principal use, except for the following, which in the opinion of the Zoning Administrator form a unified function and appearance:

- A. Groups of related commercial, industrial, office buildings, and/or multiple family dwellings, contained within a single, integrated complex as demonstrated by shared parking, signs, access, and other similar features.
- B. Live/work structures, accessory dwellings, and mixed use buildings.
- C. Residential above retail or office.
- D. Other development that in the opinion of the Zoning Administrator forms a single, cohesive development.

SECTION 3.05. STREET ACCESS

Any lot created after the effective date of this Ordinance shall front upon a public street. Every lot shall meet the minimum width requirement for the zoning district in which it is located, unless otherwise permitted in this Ordinance.

SECTION 3.06. CLEAR VISION

- A. No plantings, fencing, signs, or other obscuring structures or elements shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. This unobstructed corner shall be a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended.

- B. This Section shall not prohibit the placement of shrubbery or other materials less than thirty (30) inches in height at maturity.
- C. No vegetation shall be maintained in any setback area of any District, which, in the opinion of the Zoning Administrator, will obstruct the view from vehicles entering or leaving the site from driveways or adjacent roadways.

SECTION 3.07. SETBACK DETERMINATION

- A. Where the front yards for existing principal buildings in the vicinity of and in the same zoning district as the subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of the existing principal buildings on the same side of the street and entirely or partially within two-hundred (200) feet of the side lot lines of the subject lot.
- B. The front yard setback line shall be measured from the right-of-way line or easement line abutting a street to the front foundation line of the building.
- C. On waterfront lots, the front yard shall be considered as the portion of the lot facing the waterfront. A waterfront lot shall not be considered a through lot.
- D. Side lot setbacks shall be measured from the property line to the foundation of the building.
- E. On corner and through lots, the front yard requirements shall apply on both streets and both frontages shall be considered front yards. Corner lots shall have two (2) front lot lines, two (2) side lot lines, and no rear lot line.

SECTION 3.08. LOT WIDTH AND DEPTH

- A. No lot shall be created with a lot depth that exceeds three (3) times its width in the Village.
- B. The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the front yard setback line and shall not be diminished throughout the rest of the lot.
- C. Lots on a cul-de-sac shall have a minimum frontage of forty (40) feet at the front property line. Lot width, as measured at the front yard setback line, shall not be diminished throughout the rest of the lot.

SECTION 3.09. HEIGHT EXCEPTIONS

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, mechanical equipment, scenery lofts, parapet walls up to four (4) feet, steeples, public monuments, fire towers, gas tanks, penthouses, wireless communication towers, or other similar appurtenances not intended for human occupancy and usually required to be placed above the roof level.

SECTION 3.10. PROJECTIONS INTO YARDS

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters, and similar features may project a maximum of four (4) feet into a required front or rear yard setback area but shall not project into the required side yard setback.
- B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on all sides, unenclosed, and uncovered and extend more than six (6) inches above the average grade:
 - 1. May project a maximum of ten (10) feet into a required front yard setback area.
 - 2. May project a maximum of fifteen (15) feet into a required rear yard setback area.
 - 3. Shall not project into a required side yard setback area.
 - 4. Shall not be placed closer than ten (10) feet to any front or rear lot line.
- C. If these structures are permanently enclosed on any side, covered in any manner, or otherwise considered attached and integrated to the main building, they shall be considered part of the main building.

SECTION 3.11. ACCESSORY BUILDINGS AND STRUCTURES

- A. Permit Required. A zoning permit shall be secured prior to the placement of any accessory building greater than 200 square feet.
- B. Unless associated with a bona-fide agricultural operation, no accessory building shall be permitted on any lot which does not contain a main building. Construction of an accessory building may occur during construction of the main building, only when a permit for a main building has also been secured for that lot.

- C. Attached accessory buildings and structures that are structurally part of the main building shall conform to the setback requirements of the main building.
- D. Detached accessory buildings shall be a minimum of ten (10) feet from any other building or structure.
- E. Detached accessory buildings shall be a minimum of five (5) feet from rear or side property lines and shall not be permitted in the front yard.
- F. No more than one (1) accessory building shall be located on any parcel within any Zoning District, except that two (2) may be permitted when one (1) is a garage or other shelter for vehicles belonging to the residents.
- G. No accessory building shall be used in any part for residential dwelling or sleeping purposes, unless specifically approved as an accessory dwelling unit in accordance with Section _____. **Allow ADUs?**
- H. Manufactured homes, semi-trailers, or other vehicles shall not be used as accessory storage structures.
- I. No accessory building shall occupy any portion of a required greenbelt or buffer in any District.
- J. After the construction of an accessory building upon a parcel of land, no subsequent division of that land shall be made which would cause the building located thereon to be in violation of the terms of this Ordinance.
- K. For Residential Districts and uses, the following standards shall also apply:
 - 1. Accessory buildings shall be of residential construction and shall be compatible with surrounding residential homes. Sheet metal walls are prohibited.
 - 2. The total square footage of all detached accessory buildings associated with residential uses in the Village shall not exceed the following: **these seem pretty detailed/specific - keep or simplify? Also consider reducing height?**

Minimum Lot Size	Maximum Square Footage (GFA)	Maximum Height (ft)
3,000 sq. ft.	384 sq ft (e.g., 16 x 24)	14
5,000 sq. ft.	672 sq ft (e.g., 24 x 28)	14

10,000 sq. ft.	864 sq ft (e.g., 24 x 36)	18
15,000 sq. ft.	1,080 sq ft (e.g., 30 x 36)	20
20,000 sq. ft.	1,200 sq ft (e.g., 30 x 40)	24
35,000 sq. ft.	1,600 sq ft (e.g., 40 x 40)	28
1 acres +	2,000 sq ft (e.g., 40 x 50)	28

L. For nonresidential districts and uses, the following standards shall also apply:

1. The total area of all accessory buildings shall not exceed 33 percent of the floor area of the principal building.
2. Detached accessory buildings shall not exceed a height of twenty-five (25) feet or 1 ½ stories, whichever is less.

SECTION 3.12. OUTDOOR LIGHTING

A. Intent. The intent of this Section is to create and maintain safe nighttime environments for both pedestrians and drivers on public and privately owned roadways and rights-of-way by minimizing brightly lit surfaces and lighting glare, to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to "sky glow," and to reduce light pollution from lighting luminaires and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission, Planner, and/or Zoning Administrator in the review of all site plans submitted for approval under the terms of this Ordinance.

B. Applicability.

1. The requirements of this Section shall apply to any new development or renovation requiring a site plan pursuant to Article 12 of this Ordinance and to the installation of any new regulated lighting as follows:
 - a. Lighting intended to illuminate a site, façade, and/or parking area for commercial, industrial, institutional, and multifamily residential uses.

- b. Private street lighting and public street lighting, including that installed by a municipality or power company.
 - c. All forms of neon lighting.
 - d. Lighting of signs.
 - e. Lighting not exempted under Subsection 3.12(2)(B), below.
 - 2. Exemptions. Lighting commonly associated with single-family or two-family dwellings, including porch lights, low-level lawn lights, soffit-mounted facade illumination and special seasonal lights, such as holiday decorations, are exempted from the requirements of this Section 3.12, provided, however, that flood lights, spot lights, or yard lights mounted higher than 10 feet above grade shall be subject to the standards of Section 3.12(4) hereof. Lighting associated with temporary or special events may be exempted from the requirements of this Section upon prior request and approval of the Zoning Administrator.
 - 3. New developments shall comply with this Section as well as existing developments under consideration for other than minor changes in a site plan as described in Section _____.
- C. Lighting plan. Any new development or renovation requiring a site plan pursuant to Article 12 of this Ordinance contains exterior lighting, the site plan shall include detail on the design and location of all exterior lighting, including light poles, wall-mounted fixtures, and illuminated signs. The Planning Commission or Zoning Administrator may require submission of additional details, including lighting output, bulb type, planned lighting coverage, and other elements to determine the extent of proposed lighting on the site and any potential impacts off the property subject to site plan approval.
- D. General Standards. Outdoor lighting shall be designed, constructed, and maintained in compliance with the following standards:
- 1. Direct light and directly-reflected light shall be confined to the subject property by screening, shielding, landscaping or other measures such that no lighting in excess of one-half (½) foot candle shall be cast on adjoining private property. This standard shall not apply to internally lit signs meant to be visible from the adjoining public right-of-way.
 - 2. Lamps or bulbs, fixtures and other physical parts of the fixture assembly shall be shielded or hooded to prevent glare from traveling beyond the

subject property and to ensure that the light source is not directly visible from beyond the boundary of the subject property.

3. Light fixture assemblies shall have 100 percent cut-off above the horizontal plane at the lowest part of the light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane.
 4. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color.
 5. Beacon, strobe, and search lights shall be prohibited. No colored lights shall be used at any location or in any manner which might be confused with or construed as traffic control devices.
 6. The Planning Commission or Zoning Administrator may impose additional conditions on site illumination to further the intent of this Section.
 7. Internally-lit signs, electronic message boards, back-lit changeable copy signs and signs incorporating light emitting diode (LED), liquid crystal, video or other types of internally-lit systems shall be designed, shielded and oriented so as not to interfere with adjacent public rights-of-way or adjacent property and such signs shall not emit light exceeding either 10 foot candles measured four feet perpendicular to the sign face or one-half foot candle measured at the property line of adjoining privately-owned property.
- E. Parking Lot Lighting. In addition to the general standards for outdoor lighting in Section 3.12(4) above, the following standards shall also apply to parking lot lighting:
1. All illumination for parking lots in nonresidential districts shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light on other than normal parking hours each day.
 2. The source of illumination in all parking lots abutting a residential district or use shall not be higher than 20 feet above the parking lot surface.
- F. Departures. Outdoor lighting shall comply with the requirements of this Section 3.12, provided, the Planning Commission may, upon written application approve departures from the standards of this Section if the Planning Commission finds that the following standards are demonstrated by the applicant:

1. The use is a permitted or special land use in the zoning district.
2. The applicant will undertake reasonable measures to assure that the public health, safety, and welfare would not be undermined by approving the proposed departure.
3. The proposed plan includes reasonable measures to mitigate any glare, annoyance, intrusion or distraction would be caused by the proposed lighting.
4. The general public would benefit from the proposed lighting and the proposed lighting and related land use are consistent with the Village Master Plan.

SECTION 3.13. SWIMMING POOLS

- A. Permit Required. Any pool, spa, or hot tub over (24) inches deep and with a surface area of more than two hundred and fifty (250) square feet shall not be constructed, installed, enlarged, or altered until a building permit has been obtained and shall comply with the requirements of this Section.
- B. The outside edge of the pool, spa, or hot tub wall and/or the deck and any other appurtenances shall not be located closer than ten (10) feet from any rear or side property line. Swimming pools, spas, or hot tubs shall not be located in the front yard.
- C. Each pool, spa, or hot tub shall be enclosed by a minimum five (5) foot high stockade fence, wall, or other structure or device, sufficient to make the pool, spa, or hot tub inaccessible to small children. This enclosure, including gates therein, must be not less than five (5) feet above the underlying ground; all gates must be self-latching with latches placed five (5) feet above the underlying ground or otherwise made reasonably inaccessible from the outside to small children.
- D. Where spas or hot tubs are equipped with a lockable safety cover complying with ASTM F1346 and swimming pools are equipped with a powered safety cover that complies with ASTM F1346, the areas where those spas, hot tubs, or pools are located shall not be required to comply with Section 3.13 C above.
- E. All swimming pool, spa, and hot tub installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 3.14. FENCES, WALLS, AND SCREENS

- A. Permit Required. Unless otherwise stated in this section, a zoning permit is required prior to the construction or erection of all fences, walls, and screens.
- B. Fences shall be installed in a workmanlike manner and be maintained at all times in a state of good repair, with all braces, fasteners, supporting frames, etc., free from deterioration, insect infestation, rot, and rust. All fences shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant metals.
- C. No person shall place, string, or maintain chicken wire, agricultural fencing, barbed wire (unless associated with required Homeland Security measures) as part of any fence or structure along a property line. Fences or walls shall not contain spikes, sharp points, razor wire, electric current, charge of electricity, or other characteristics dangerous and likely to snag, tear, cut, or otherwise injure any person.
- D. Within a required front yard, no fence may exceed a height of three (3) feet for substantially solid or opaque fences and four (4) feet for chain-link, wrought iron, or picket fences, unless specifically provided for elsewhere in this Ordinance.
- E. Within a required side or rear yard, no fence may exceed a height of six (6) feet in height in residential districts or eight (8) feet in height in commercial and industrial districts.
- F. Fences constructed of wood or other material having one (1) side designed and considered the decorative side shall be erected with that side facing the adjoining street or abutting property owner's premises.
- G. It shall be unlawful to construct any fence in any public right-of-way or across a utility easement.
- H. Fences may be erected adjacent to the property line, but shall be constructed and located entirely on the owner's property.
- I. No fence shall be erected or maintained on any corner lot or parcel that will, in the opinion of the Zoning Administrator, obstruct the view of a vehicle drive approaching the intersection.
- J. Unless otherwise approved by the Planning Commission or Zoning Administrator, all fences shall be constructed of typical or traditional fencing materials, including but not limited to, wood or composite wood planks, aluminum, wrought iron, chain link, and polyvinyl.

- K. The height of a fence, wall, or screen shall be measured from the grade to the top of the fence. The artificial raising of land to increase the functional height of the fence beyond the limitations of this section is prohibited.

SECTION 3.15. REGULATIONS APPLICABLE TO ALL SINGLE-FAMILY DWELLINGS

- A. It is the intent of this Section to establish minimum standards of appearance and construction for all single-family dwellings, whether constructed on a lot, a pre-manufactured or pre-built building, or a manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with this Section.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes which are or may be adopted by the Village, and with applicable federal or state standards or regulations for construction.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the District in which it is located.
- D. The dwelling unit shall be firmly attached to a permanent continuous foundation, which has a wall of the same perimeter dimensions as the dwelling unit and complies with applicable provisions of the adopted building code.
- E. Any crawlspace that may exist between the foundation and ground floor of the dwelling unit shall be fully enclosed by an extension of the foundation wall along the perimeter of the building.
- F. The dwelling unit shall have a minimum horizontal dimension across any front, side, or rear elevation of twenty (20) feet at time of manufacture, placement, or construction.
- G. Roof drainage in the form of a roof overhang of at least twelve (12) inches shall be provided to direct storm or melt water way from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.
- H. The dwelling unit shall contain no additions of rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- I. Storage areas with an area of no less than one hundred and twenty (120) square feet shall be provided within a building. The storage area may consist of a basement, closet area, attic, or attached garage in a main building, or in a

detached accessory building which is in compliance with all other applicable provisions of Section 3.11.

- J. The dwelling unit shall be connected to public sewer and water supply systems.
- K. The foregoing shall not be construed to prohibit innovative design concepts involving such matters such as (but not limited to) solar energy, view, or unique land contour.
- L. The dwelling unit shall have no less than two (2) exterior doors, with one being in either the rear or side of the dwelling unit.
- M. Permanently attached steps or porch areas at least three (3) feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first-floor entry of the dwelling unit and the adjacent grade.
- N. The use of any portion of the basement of a partially completed building or accessory building for dwelling or sleeping purposes is prohibited in every zoning district, unless an accessory building is specifically approved as an accessory dwelling unit.
- O. The foregoing standards shall not apply to a manufactured home located in a manufactured home community licensed by the Michigan Manufactured Home Commission and approved by the Village **according to the provisions contained in Chapter 7** of this Ordinance except to the extent required by state or federal law.
- P. If the dwelling unit is a manufactured home, the following standards shall also apply:
 - 1. Dwellings located in a manufactured home park regulated pursuant to act 96 of 1987 (The Mobile Home Commission Act), as amended, shall comply with the terms of this Ordinance as applicable and the terms of that Act and all rules promulgated under it.
 - 2. If the manufactured home is new, it must have completed inspection reports that are traceable to the unit number (serial number) of the home meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated.
 - 3. If the manufactured home is used, it must be certified by the manufacturer and/or appropriate inspection agency as meeting the

standards referenced in subsection P (1) above, and found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.

4. The manufactured home shall be installed with the wheels and towing mechanism removed.
5. All units shall be no more than eight (8) years old and shall have a minimum width of twenty (20) feet, except that in the R-4, Manufactured Home Community District, where there are existing dwelling units of under twenty (20) feet in width they may be replaced with a newer structure of under twenty (20) feet in width, provided:
 - a. Side yard setbacks are a minimum of twelve (12) feet total with a four (4) foot minimum;
 - b. The front setback shall be a minimum of ten (10) feet;
 - c. The rear setback shall be a minimum of twenty (20) feet.
6. All units shall have, at a minimum a four (4) foot crawl space under the entire unit.

SECTION 3.16. TEMPORARY USES OR BUILDINGS

- A. Temporary Sales. Sidewalk sales, food trucks, pop-up stores, tents, or seasonal sales of goods are permitted in accordance with the following restrictions:
 1. Such temporary sales shall be permitted in the C1 or C2 districts.
 2. Registration: Any person, organization or business desiring to utilize property for a use authorized by this section shall first register with the Zoning Administrator on a form to be provided, and shall pay a fee for registration in an amount as established by the Village Council. The registration form shall be accompanied by a sketch plan identifying:
 - a. The shape, location and dimensions of the lot, including the shape, size and location of all existing buildings or other structures on the lot, off-street parking layout, and the location of any designated fire lanes.
 - b. The shape, size and location of all buildings or structures to be erected or moved onto the lot, including tents, tables, stands, display racks, or vehicles from which the temporary sales will be conducted.

3. Time limitations:

- a. Registration for a sidewalk sale related to a permitted principal use otherwise occurring on the lot shall be effective for no longer than seven (7) days. There shall be a minimum seven-day gap between subsequent sales. No more than three (3) such temporary uses may occur on a particular lot within a single calendar year.
- b. Registration for a seasonal sale of goods, not related to a permitted principal use otherwise occurring on the lot (e.g., t-shirts, Christmas trees, sunglasses, fireworks, etc.) shall be effective for no longer than thirty (30) days. No more than one such seasonal sale shall be permitted on a lot within a single calendar year or at a time.
- c. Pop up shops may be permitted for no longer than thirty (30) days provided that the activity conducted would be permissible in the underlying zoning district and other applicable regulations of this Ordinance would be satisfied.
- d. A temporary tent related to a permitted principal use otherwise occurring on the lot may be erected for no longer than ____ days per calendar year.

4. Regulations:

- a. A temporary tent or sidewalk sale permitted in accordance with this Section shall comply with all applicable requirements for the zoning district in which it is to be located.
- b. A temporary structure used in conjunction a use permitted by this section use may be located in a front yard, but no closer than one-half (½) the distance between the right-of-way and the principal building.
- c. When a seasonal sale of goods is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable zoning regulations for the district in which it is to be located, including all requirements pertaining to lot size, height, setback, lot coverage, and off-street parking.

5. The Village Council may issue permits for the temporary use and occupancy of property for uses not otherwise provided for in this ordinance (carnivals, special events, flea markets, environmental testing devices, etc.) and that do not require the erection of any structures

requiring foundations or connection to public water or sewer. For the purpose of this section, a temporary activity shall not extend for more than six (6) weeks in any year.

6. Private garage sales, yard sales, or estate sales. Sales of personal items from a private residence or church, such as garage or yard sales, or civil organization events such as car washes, shall not require a temporary activity permit if such activity does not extend for more than three (3) days in any 90-day period nor occur more than once in any 90-day period.

B. Temporary Dwellings.

1. The parking or storage of recreational vehicles, campers, or boats and trailers on the street for more than forty-eight (48) hours at a time is prohibited. Such storage may not occur more than three (3) times per twelve-month period, and shall be separated by at least seven (7) days between each occurrence. The parking or storage of recreational vehicles, campers, or boats and trailers is permitted on a lot pursuant to Section 3.21.
2. A recreational vehicle or camper may be used as a dwelling for guests of the property for not more than seven days at a time.
3. The Zoning Administrator may authorize the occupancy of a mobile home, existing dwelling unit, or recreational vehicle as a temporary residence for a period not to exceed one year during construction or reconstruction of a permanent dwelling or new dwelling unit for occupancy by the applicant on the lot or parcel on which the temporary dwelling is proposed to be temporarily located.

C. Temporary Structures. Temporary structures such as construction trailers, job-site offices, tool cribs, and similar structure may be permitted in accordance with the following requirements:

1. Such temporary structures shall not be occupied as a dwelling.
2. Unless otherwise permitted by this Section, a temporary structure shall meet the setback requirements of its respective district. The Zoning Administrator must approve the site for the temporary structure prior to its placement.
3. Construction trailers, job-site offices, tool cribs and similar temporary structures associated with building or public facility construction shall be properly anchored and may be located on any portion of a construction

site, provided clear vision corners are maintained at all intersections and safe pedestrian passage is provided.

SECTION 3.17. ILLEGAL DWELLINGS

The use of any basement for dwelling purposes is prohibited in any Zoning District unless the basement meets the appropriate adopted building codes for the Village. Buildings erected as garages or accessory buildings shall not be occupied for dwelling purposes, unless specifically approved as an accessory dwelling unit in accordance with Section ____.

SECTION 3.18. DAMAGED BUILDINGS

- A. A building which has collapsed or been damaged by fire, flood, storm, or act of God to such an extent that the cost of repair and reconstruction exceeds fifty percent (50%) of its replacement value at the time the damage occurred shall be repaired, removed, or reconstructed by commencement within ninety (90) days and completion within one (1) year of the damage and according to the provisions of this Ordinance and the Building Code relative to new construction.
- B. A building damaged by wear and tear, deterioration and/or depreciation to such an extent that the cost of repair and rehabilitation exceeds fifty percent (50%) of its replacement value shall be repaired, removed, or rehabilitated by commencement within ninety (90) days and completion within one (1) year of the date of notice given the Zoning Administrator, according to the provisions of this Ordinance and the building code relative to new construction.
- C. A building permit shall be secured before reconstruction of a building is commenced. The Zoning Administrator shall determine the extent of destruction, deterioration, or depreciation prior to granting permission to apply for a building permit.
- D. The Zoning Administrator may require that damaged buildings be secured at the doors and windows or that the building be removed.

SECTION 3.19. DEMOLITION PERMITS

- A. No buildings shall be razed until a zoning permit has been obtained from the Zoning Administrator who may require a plot plan and performance bond in an amount set by the Village Council. This bond shall be conditioned on the applicant completing the razing within a reasonable period as prescribed in the permit and complying with any requirements of the Building Code, including, but not limited to, requiring all debris being eliminated from the site rather than

being buried in a collapsed foundation, filling excavations, sealing wells or eliminating septic tanks, and proper termination of utility connections.

- B. Utilities shall be disconnected prior to the issuance of a permit.
- C. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within 30 days of completion of the demolition. If the demolition is not accomplished according to the terms of the approval, then the Village shall access the performance bond and use the money to restore the site to a safe and stable condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid in a timely fashion.
- D. Structures shall be demolished in such a manner as to avoid hazards to persons and property, interference with the use of adjacent buildings, and interruption of free passage to and from such buildings.
- E. During the demolition of any building or structure the work shall be kept thoroughly wetted down to prevent the spread of dust. The owner or contractor shall provide water and necessary connections therefore. The Zoning Administrator or Building Official may require construction of a suitable fence around the work site where conditions indicate that the safety of the public requires such fence.
- F. All buildings and structures to be demolished shall be completely razed and all materials shall be removed from the site and disposed of in accordance with all applicable laws and regulations. All materials, including, without limitation, every installation, part of a building or accessory building, or other improvement on the premises, whether above or below grade, shall be completely removed from the site. No part of any basement or infrastructure below grade, including any underground storage tanks, shall remain.
- G. The premises shall be cleared of all debris and components of the building or structure, and the site filled, leveled and seeded within seven days of completion of the demolition.

SECTION 3.20. ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any District. The intent of this Section is to exempt actions regarding essential services from the application of this Ordinance. Significant structures associated with essential services and proposed within a residential district may be referred to the Planning Commission as to architecture, landscaping, and screening suitable to the neighborhood.

SECTION 3.21 STORAGE AND PARKING OF RECREATIONAL VEHICLES

- A. Within the R1 and R2 district districts, the outdoor storage or parking of RVs, boats, and trailers of any kind shall be permitted only in accordance with this section. The provisions of this section do not apply to vehicles regularly utilized in the conduct of a profession, occupation, or business such as work trucks, vans, and similar commercial vehicles with a capacity of one and one-half (1½) tons or less.
- B. The storage or parking of trucks of more than one and one-half (1½) tons capacity such as dump trucks, cement mixers, and semi-trucks and trailers is prohibited in residential districts.
- C. The outdoor storage of recreational vehicles, boats, and trailers shall be regarded as a permitted accessory use in the R1 and R2, districts, if such storage conforms to the provisions of this section.
- D. Such outdoor storage may be permitted within the rear yard or side yard, provided all stored material is placed no closer than three (3) feet from a side or rear lot line provided that such storage does not prevent clear access between the front and rear yards of the lot for a person on foot.
- E. Such storage may occur in a front yard, provided that all stored material is placed on an improved surface (asphalt, concrete, asphalt millings, etc.) and that recreational vehicles and equipment are not located within 20 feet of the street or sidewalk.
- F. The open storage of disassembled or component parts for any vehicle of any type is prohibited.
- G. Any recreational vehicle or boat stored outdoors shall be the property of the occupant.
- H. Inoperable or unlicensed vehicles, boats, trailers, motorcycles, and vehicle parts shall be stored in a completely enclosed structure.

SECTION 3.22. RESERVED ADD TO BLIGHT/POLICE POWER ORD.

SECTION 3.23. KEEPING OF ANIMALS

- A. The keeping of domesticated animals is permitted as an accessory use in any residential district. No more than a combined total of six (6) adult cats or dogs six (6) months of age or older shall be kept or housed in a dwelling unit.

- B. Where animals other than house pets of the owner or occupant of the premises are kept or allowed outside, a fence of adequate construction to keep all animals from leaving the premises shall be provided and properly maintained.

C. Allow chickens?

SECTION 3.24. HOME OCCUPATIONS

- A. Permit Required. All home occupations shall be registered with the Zoning Administrator on a form provided by the Village and may require a fee as determined by the Village Council. The registration form shall be accompanied by such information as is necessary to demonstrate compliance with this Section.
- B. No person other than the resident occupants shall be engaged in the home occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home occupation shall be operated in its entirety within the principal dwelling, but shall not, in any case, exceed a total floor area of twenty five percent (25%) of the gross floor area of the dwelling unit. **Also allow in an accessory building?**
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one (1) sign as permitted by Section _____. The permitted sign shall be located on the same property as the home occupation and shall not be permitted within any street right-of-way.
- E. No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises.
- F. Any traffic generated by the home occupation shall not be so great as to cause adverse effects within or upon the surrounding neighborhood. Parking areas for a home occupation shall be located off street and outside the required yard areas.
- G. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

SECTION 3.25. RESERVED

SECTION 3.26. NONCONFORMITIES

A. General Provisions

1. Any lot, use of land, or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, or structure which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this Ordinance.
2. An existing lot, use of land, or structure which does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established under a previous Zoning Ordinance, created, or commenced during a period of time when no valid Zoning Ordinance was in effect, or was lawfully established under the jurisdiction of this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided there is compliance with this Section.
3. A lawful use of land or structure which is under construction at the time of adoption of this Ordinance may continue establishment of a building or structure before the enactment of this Ordinance shall be permitted to continue as a nonconformity, subject to the provisions of this Section.
4. On any nonconforming building or structure, or on any building or structure located on a nonconforming lot or devoted in whole or in part to any nonconforming use, work may be done in on ordinary repairs or on repair or replacement of walls, fixtures, wiring or plumbing, provided that the building or structure as it existed on the effective date or amendment of this Ordinance, shall not be altered or increased except in compliance with this Article.
5. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof, or parcel declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
6. A change of tenancy, ownership or management of any existing nonconforming lots, uses of land, buildings or structures, or of lots, uses of land, buildings or structures in combination, shall be permitted.

B. Nonconforming Uses

1. No part of any nonconforming use shall be moved unless the movement eliminates or reduces the nonconformity.
2. If a nonconforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined by the Zoning Administrator to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - b. The property, buildings, and grounds have fallen into disrepair.
 - c. Signs or other indications of the existence of the nonconforming use have been removed.
 - d. Removal of equipment or fixtures that are necessary for the operation of the nonconforming use.
 - e. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
3. A nonconforming use shall not be changed to another use that is also nonconforming unless it is more conforming than the previous use. Once a conforming use is established the prior nonconforming use may not be reestablished.
4. A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, **except as may be permitted by the Zoning Board of Appeals upon reaching a determination that the proposed enlargement, increase, or greater area:**
 - a. **Is not larger than twenty five percent (25%) of the original nonconforming area.**
 - b. **Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots.**

- c. Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase, or greater area.
- d. Complies with any reasonable conditions imposed by the Zoning Board of Appeals that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community. **Keep allowing expansion of nonconformities?**

C. Nonconforming Buildings and Structures

1. The expansion of a nonconforming structure shall be permitted provided that the addition complies with this Ordinance and does not increase the nonconformity.
2. In the event any nonconforming building or structure shall be damaged by fire, wind, or an act of God or the public enemy, it may be rebuilt or restored provided the cost of restoration thereof shall not exceed sixty (60) percent of the replacement value as determined by the Building Inspector. If the cost of restoration exceeds sixty (60) percent of the replacement value as determined by the Building Inspector, the building or structure shall only be rebuilt in conformance with all provisions of this Ordinance.
3. A nonconforming building or structure shall not be moved in whole or in part except when the moving eliminates or reduces the nonconformity.
4. If any nonconforming building or structure is altered or modified to eliminate, remove, or reduce any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.

D. Nonconforming Lots of Record

1. A nonconforming lot may be used for the purposes for which it is zoned, provided that:
 - a. If already less than the minimum requirements of this Ordinance, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance.

- b. Any main building on the lot shall be located so that at least sixty-six percent (66%) of the setback requirements of the District in which the lot is located are met.

2. Combination of Nonconforming Lots

- a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
 - (1) Are in common ownership.
 - (2) Are adjacent to each other or have continuous frontage.
 - (3) Individually do not meet the lot width or lot area requirements of this Ordinance.
- b. Parcels meeting the provisions of subsection 2, a, above, shall be combined into a lot or lots complying as nearly as possible to the lot width and lot size requirements of this Ordinance. No portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

SECTION 3.27. PRIVATE STREETS PROHIBITED

Private streets are not permitted in the Village of Shelby.

SECTION 3.28. SUBDIVISIONS AND SITE CONDOMINIUMS

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership in accordance with the Condominium Act (Act 59 of 1978), as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon as allowed in the Zoning District, provided the unit meets the Development Requirements for the Zoning District in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the

Planning Commission in accordance with the Site Plan Review process of Chapter 12.

- D. Subdivisions created under the Land Division Act (Act 288 of 1967) shall be subject to a public hearing process under Section 15.03 and shall meet the standards of Section 12.06.

How would it be best to address these? Should we come up with submission requirements (master deed, etc.), a process for review, required improvements, etc. or is it ok to keep simple?

SECTION 3.29. DESIGN STANDARDS (CONSIDER REVISING AND RELOCATE)

- A. With the exception of single and two family dwellings, all proposed development subject to site plan approval shall comply with the following architectural guidelines:

1. The applicant shall use quality architecture to ensure that buildings are compatible with surrounding uses, protect the investment of adjacent landowners, blend harmoniously into the streetscape, and maintain a positive image for the Shelby Community.
2. Building and sign materials and colors shall relate well and be harmonious with the surrounding area. Subtle colors should be used for building and roofing material.
3. Buildings shall possess architectural variety, but enhance the overall cohesive community character. The scale and proportion of existing structures in the area should be considered. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape.
4. The first floor of commercial buildings facing a road shall be comprised of ten (10%) minimum of clear glass or a percentage established by the Planning Commission. (amended July 2007)
5. Any side of a building facing a road should be covered with, or constructed of, at least fifty percent (50%) of the following materials:
 - a. Brick
 - b. Decorative concrete block.
 - c. Cut stone.

- d. Logs.
 - e. Other materials approved as part of the site plan.
6. In the Village, sheet metal may be used as an acceptable outdoor wall covering, with a Special Use Permit.
 7. In Shelby Village, architectural features of the buildings shall include details and ornaments such as archways, colonnades and cornices.
 8. Building walls over one hundred (100) feet in length shall be broken up with varying building lines, windows, architectural accents or trees.
 9. Building entrances shall utilize windows, canopies and awnings; provide unity of scale, texture, and color.
 10. The Planning Commission may modify or waive the requirements of this Section if it finds that a proposed development is consistent with the character of the surrounding properties.

SECTION 3.30. RESERVED

SECTION 3.31. FARM MARKETS

- A. Farm markets may be permitted in the C-1 district subject to the following conditions:
 1. Farm markets shall comply with all applicable Health Department and Liquor Control Commission regulations. Areas accommodating the sales of prepared foods and beverages shall be maintained in a clean and sanitary condition at all times.
 2. The area of land used for the farm market, as well as associated parking and loading areas, shall be designed to provide adequate drainage and maintained in good condition at all times. The Planning Commission may require means to minimize dust travel, including paved surfaces and paved parking.

SECTION 3.32. UNCLASSIFIED USES

The Planning Commission may find that a land use, while not specifically classified in this ordinance as a permitted or special land use, may be sufficiently similar to uses listed as permitted by right or as special uses. In that event, such unclassified uses may be reviewed and treated as similar classified uses within the district.

In reaching such a finding, the Zoning Administrator shall first evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter, and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with the intent of the district and other permitted and special land uses. If the Zoning Administrator determines that such use is similar to the uses permitted by special use permit, a report outlining the determination shall be provided to the Planning Commission with a recommendation to consider such use as sufficiently similar to permitted or special land uses within the district and the approval standards that should be used to evaluate the proposed use.

Where a proposed use of land or use of building is not contemplated or specified by this ordinance or where the Zoning Administrator has a question as to the appropriateness of a use, which, although permitted, involves other features, which were not contemplated or specified by this ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this ordinance, or that it involves features, which were not contemplated or specified herein, such use shall be prohibited. Nothing in this Section shall be construed to prohibit a future amendment of this Ordinance to provide for a land use that may be currently excluded.

SECTION 3.33. DUMPSTER AND REFUSE CONTAINMENT

- A. Applicability. All dumpsters and refuse containers for all uses other than single-family and two-family dwellings and their accessory uses shall be contained within a dumpster enclosure. All such uses districts developed or expanded after the effective date of this Ordinance shall comply with the provisions of this Section.
- B. Location of dumpster enclosures.
 - 1. Dumpsters shall be at least 15 feet from any building and in a location that is clearly accessible to the servicing vehicle. Dumpsters and dumpster structures shall not be located in any required front yard, nor upon any easement, public or private. Overhead utility lines must be taken into consideration when locating a dumpster structure.
 - 2. Dumpsters and dumpster structures shall be situated so as not to interfere with the access to any designed parking spaces, fire lanes, or roadways. Further, the space used by dumpster and dumpster structures shall not be included in the calculations for establishing the required minimum parking spaces.
- C. Design of dumpster enclosures.

1. Dumpsters shall be screened on three sides with a decorative masonry wall or solid wood fencing, not less than six feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides. The gate shall be constructed in such a manner as to be lockable in both the open and closed positions. A cyclone-type wire fence may be used for the gate provided that the fencing is screened with decorative slats interlaced in the fencing so as to provide sufficient screening. The minimum inside dimensions of this structure shall be 12 feet by 12 feet (Fig. 13.09).
2. Dumpsters shall be placed on a concrete pad which shall be a minimum of eight inches in thickness and have an apron and a joint shall separate the apron. Bollards, having a minimum outside diameter of four inches and extending a minimum of 42 inches above and below grade, shall be installed on both sides of the dumpster enclosure opening to prevent damage to the screening wall or fence. A minimum of two such bollards shall be installed across the back wall of the enclosure a minimum of two feet from the back wall and shall be installed in such a manner as to have an expansion joint separating the bollards from the remainder of the slab.

D. Maintenance and servicing of dumpster enclosures.

1. Dumpsters and dumpster structures shall be kept clean and maintained in good repair.
2. Dumpster capacity shall be large enough to accommodate the garbage and refuse generated by the property.
3. Dumpsters and other refuse containers shall only be serviced by licensed persons approved by the Village Council.