

# AGENDA

Village of Shelby Planning Commission  
Wednesday, February 16, 2022  
218 N. Michigan Ave.  
Shelby, MI 49455  
Special Meeting – 6:00 P.M.



## Agenda Topics:

1. Call to Order:
2. Roll Call:
3. Pledge of Allegiance:
4. Approval of Minutes: October 27, 2021     **AR**
5. Public Hearings: None
6. Commission Administrative Business:
  - a. Zoning Ordinance Update – Site Development Requirements (Signs and Parking) and Discussion on District Chapters (Lot sizes)     **D**
7. Reports:
8. Public Comment:
9. Member Discussion:
10. Adjournment:

**AR- Action Requested**  
**D- Discussion Item**



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Memorandum

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**Date:** February 11, 2022

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

**From:** Brady Selner, Village Administrator

**Subject:** Zoning Ordinance Update – Site Development Requirements (Signs and Parking) and Lot Size Discussion

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**Information:**

We will pick up discussion on Chapter 13 - Site Development Requirements with specific attention given to sign and parking regulations. Andy Moore has also done research on the Village of Shelby plat sizes and will inform the Planning Commission on his recommendations regarding lot sizes for each zoning district. The documents included in this packet for us to review include Chapter 13 – Site Development Requirements, Chapter 15 – Administration and Enforcement, and Chapter 10 – Planned Unit Developments.

**Supporting Documents:**

Chapter 13 – Site Development Requirements  
Chapter 15 – Administration and Enforcement  
Chapter 10 – Planned Unit Developments

**VILLAGE OF SHELBY  
PLANNING COMMISSION  
WEDNESDAY, OCTOBER 27, 2021 at 5:30 P.M.  
SPECIAL MEETING PROCEEDINGS**



**1. CALL TO ORDER:**

The Village of Shelby Planning Commission Special Meeting was called to order at 5:31 P.M. by Chairperson Ross Field.

**2. ROLL CALL:**

Answering Roll Call: Tara Kelley, John Sutton, Paul Inglis, Malcolm Carey, and Ross Field.

Staff Present: Village Administrator, Brady Selner.

Guest Present: Andy Moore, Williams and Works.

Absent: Tim Horton and Samantha Near.

**3. PLEDGE OF ALLEGIANCE:** All stood for the pledge.

**4. COMMISSION ADMINISTRATIVE BUSINESS:**

Andy Moore reported that he added some graphics to Chapter 3. General Provisions of the Zoning Ordinance and reviewed other Chapter 3 updates. He also referenced the changes to Sections 3.08, 3.14 and 3.15 of the Ordinance.

Section 3.19. Accessory Dwelling Units (ADUS) was added, and discussion ensued regarding subsections 3.19.B. Design Requirements; 3.19.C.4. under Use of Occupancy Requirements; 3.19.D. Deed Restriction Required; and, 3.19.E. Existing Accessory Dwelling Units. This subsection was grandfathered in as a nonconforming use.

Chairperson Field asked if it would be the responsibility of the Zoning Administrator to enforce subsection 3.19.E. and Mr. Moore responded in the affirmative.

Discussion followed regarding Sections 3.31. Dumpster and Refuge Containment and 3.32. Small Scale Solar Energy Systems. Further discussion followed regarding Section 3.33. subsection C. Access Management. Most of the other changes were fairly limited in their scope.

VA Selner inquired about a Community Solar System. Mr. Moore suggested that it could be added to the Ordinance as a permitted use under Utility Scale Solar System. VA Selner referenced back to Section 3.11. subsection D. Accessory Building and Structures wherein attached accessory buildings shall be a minimum of ten (10) feet from any other building or structure. Emergency vehicles need to get in between buildings and structures; however, could the minimum of ten (10) feet between buildings and structures be less than ten (10) feet? Mr. Moore replied that the ten (10) foot number is the most common one used in smaller communities. The number could be reduced later if necessary. The consensus of the Planners was that the matter is to be determined (TBD) later.

Tara Kelley asked what, if any, relief could a person get from the ten (10) foot requirement? VA Selner told her that a person could ask for a variance to reduce the distance between an accessory building and a structure. Mr. Moore stated that we could add some language to cover a non-conforming use.

The Commission's attention turned to a review of Chapter 4. Zoning Districts and Map for Residential, Commercial and Industrial Districts. Section 4.01. Establishment of Districts, 4.02. Official Zoning Map and 4.03. Interpretation of District Boundaries are pretty much boiler plate language. Section 4.04. Zoning of Vacated areas was reviewed. Section 4.06. is a summary of all the permitted land uses in the Village of Shelby. Every use should be listed in Table 4.1. - Table of Land Uses.

Chairperson Field asked where a medical marijuana business would be referenced. Mr. Inglis replied that the Village Council has opted out of both recreational and medical marijuana establishments in the Village. The Council could refer the matter back to the Planning Commission for consideration if they so determine. Mr. Moore suggested that, unless the Village Council wishes to include all recreational and/or medical marijuana businesses in the Village, reference to them should be left out of the Zoning Ordinance Any decision to pursue the matter should be thoroughly discussed with the Village Attorney first.

The categories of marijuana use were discussed in detail. It was stated that any individual could grow up to 12 marijuana plants for personal use. If an individual (s) choose to operate a medical marijuana dispensary, then it would be a Village/law enforcement issue. VA Selner informed the Planners that the Village Council or he would refer any commercial marijuana activity in the Village to the Village Attorney for review first.

Mr. Moore reviewed Chapter 6. R-1 Low Density Residential District and related that there are separate chapters for each zoning district in the Village. Chapter 6 reveals the permitted and special land uses and site development requirements in Low Density Residential District. He asked the Planners if they wanted to leave the 1,200 square foot minimum dwelling unit for floor areas in the district requirements. Some municipal zoning ordinances allow minimum square foot floor areas of 720 and even 576 square feet. 1,200 square feet may be on the high end and the Planning Commission may wish to go to a smaller minimum square foot floor area. VA Selner advised that a 24-foot by 30-foot floor area (720 square foot) is the minimum floor area where he came from.

Mr. Carey felt that a 720 square foot minimum floor area seemed like a good number. A 1,200 square foot minimum floor area is usually in the 2-bathroom, 2-bedroom range. That may be a difficult requirement for some people to meet. Mr. Sutton suggested that it is probably easier to take care of and manage a 720 square foot home. Ms. Kelley stated that if a person wants to build a house in Shelby, the Village needs to downsize the minimum square foot floor area from 1,200 square feet in order to encourage him/her to do so. Chairperson Field said that there is a nationwide movement for smaller sized houses. Mr. Carey believed that someone could go below ground level and not complete the construction. Chairperson Field cautioned against going below grade level because one could "open up a can of worms" in doing so.

The consensus of the Planning Commission was to go with a 720 square foot minimum dwelling unit floor area. VA Selner questioned whether the Village's minimum lot sizes make it conducive for building smaller houses. Mr. Moore followed that up by asking if the Village of Shelby needs R-1 and R-2 Residential Districts. VA Selner responded with a question. If the Village goes to smaller standards, does the Village get a downtown feel or does the Village go bigger and have a suburb appearance? Mr. Moore reviewed the Chapter 7. R-2 Medium Density Residential District requirements. Could the Planners bring the 1,200 square foot minimum dwelling unit floor area for a single family down to 720

square feet and could they bring down the two family 1,000 square foot per unit to 720 square feet? If so, they could add multiple family standards. VA Selner contended that the more units you put into a development, the more affordable you can make housing. It would encourage and enable more multiple family homes. As the discussion continued, it did not become any clearer as to what would be an acceptable minimum size floor area for single family and two-family housing units. Mr. Moore offered a minimum of 500 square foot to 600 square foot for single family dwellings and 600 square feet to 720 square feet for the two-family dwelling units. Perhaps, "Housing Next" would have a recommendation.

Chapter 8. R-3 District Requirements were considered next. The highlighted areas in Table 8-1 R-3 District Requirements were reviewed. They applied to dimensional standards. VA Selner questioned whether a 10,000 square foot minimum plus 3,000 square feet of lot area per dwelling unit was asking too much. Mr. Moore said he had a notion to reduce the 3,000 square feet of lot area portion of the requirements. Chairperson Field asked how the requirement affected the Shelby Trails development. VA Selner said the project has a zero-lot line setback. It is sort of a hybrid system that was determined as the project progressed. Mr. Moore suggested that the front yard setback and side yard setbacks could be reduced to 15-foot setbacks and still maintain reasonable setback space.

VA Selner did not feel that a 30-foot setback was conducive for a high-density area. Chairperson Field viewed a 30-foot setback as leading to a more townhouse like appearance. Mr. Moore suggested that the 40% maximum lot coverage could be increased to 60% - 70%. The 1,200 square foot minimum per dwelling unit for single family dwellings could be reduced as well. There had been some discussion about reducing the minimums for bedrooms in multiple family dwellings. Chairperson Field and Mr. Carey firmly believed that the minimum square footage requirements for multiple family dwelling apartments should be trimmed back.

There were no proposed changes to Chapter 9. R-4 Manufactured Home Community District. Mr. Moore was not quite certain what subsection A.5. of Section 10.02. Permitted and Special Land Uses means. It reads "existing single-family homes." Section 10.02 A.5 is under Chapter 10. C-1 Central Business District. He stated that it is a non-conforming use and asked if it should be removed and put under a non-conforming use chapter. Mr. Carey added that putting the language in Chapter 10 is redundant. Ms. Kelley strongly asserted that residential use should be permitted above retail/office buildings and no residential use should be permitted in the lower level in a Central Business District.

Mr. Moore reviewed 10.02.B. He referred to Table 10.1. C-1 District Requirements. The minimum width to depth ratio is 13 at the minimum building height is "35 feet and 2 stories or match adjacent buildings." The width to depth ratio for many downtown businesses exceeds the 13 ratio. The Planners may wish to consider deferring to ACT 41 for the district or delete it entirely.

Mr. Moore emphasized that in a Central District the Planning Commission can not treat a church differently from a theater or hotel/motel as they are all places of public assembly. Ms. Kelley asked Mr. Moore how outdoor seating at a restaurant should be treated. He answered that, because of Covid-19, some communities have relaxed the rules in order to offer a safer environment for dining. Some communities require special use approval to relax outdoor dining rules.

Mr. Moore provided an overview of subsection C.4. of Section 10.03. Site Development Requirements. The first floor of commercial buildings facing a road shall be comprised of ten percent (10%) minimum of clear glass or of a percentage established by the Planning Commission.

The front doors of a commercial building must face the street. Much discussion ensued with regard to the minimum and maximum heights of downtown commercial buildings. VA Selner and Ms. Kelley expressed the need not to discourage the construction of commercial buildings with apartments above and retail below.

Mr. Moore reviewed Chapter 11. C-2. General Business District. He contended that Chapter 11 is the most “inclusive” district. VA Selner added that a drive-through establishment would be acceptable downtown; however, it would require a special use permit and site plan approval would be necessary. Mr. Moore suggested that some of the dimensional standards could be reduced. He is tempted to remove the width to depth ratio references for all or most of the Districts in the Zoning Ordinance. Maybe they should remain in the R-1 District requirements; however, at a minimum, they need to be removed from the C-2 District requirements.

Mr. Moore briefed the Planners on Chapter 12. IND Industrial District. VA Selner thought it was unusual to see that sexually orientated businesses are permitted in the IND District with special land use approval. Mr. Moore explained that they need to be allowed somewhere but the Planners can place restrictions on where they can be located in the IND District. Usually, they are allowed to be located where they are “out of sight, out of mind.”

Mr. Moore advised the Planners that retail businesses and personal services businesses are allowed in Industrial Districts. VA Selner informed Mr. Moore and the Planning Commission that the Village’s Industrial Park lot sizes are not conducive to large scale industries. The Village could allow some retail and office space in the Industrial Park. Most of the Village’s industrial property is taken up by storage facilities and the Village should not be encouraging that. Although, commercial storage warehouses for contractors use could be allowed. VA Selner related that agricultural exempt buildings and pole barns are different ones to contend with.

Mr. Moore told the planners that, at the next meeting, they will be reviewing and discussing Chapter 12. Site Plan Review and Chapter 14. Special Land Uses. With regard to Special Land Uses, one must deal with numerous procedural issues, and they can be somewhat difficult (for example: sign ordinances).

Special land uses address how the property is to be used and not necessarily the buildings on it. For example, how does use of the property impact the surrounding properties? Site plan reviews do not require a public hearing. Special land use requests do require a public hearing to be conducted by the Planning Commission.

VA Selner advised the Planners that, going forward, they could spend less time on procedural issues and more time on the key contents of the zoning ordinance. He emphasized the need for the Village’s land use map to match its zoning map. He encouraged the Planners to review the color-coded zoning map and to think about how close it matches up with the proposed use of land in the Village.

**5. REPORTS:** None

**6. PUBLIC COMMENT:** None

**7. MEMBER DISCUSSION:** None

**8. ADJOURNMENT:** There being no further business to conduct, chairperson Field adjourn the meeting at 7:55 PM.

Planning Commission Meeting minutes are not official until approved at the next Regularly Scheduled Planning Commission Meeting.

Approved

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Minutes Respectfully Submitted by Paul Inglis/ Acting Secretary

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Date

# CHAPTER 13. SITE DEVELOPMENT REQUIREMENTS

## SECTION 13.01. LANDSCAPING, BUFFERING AND SCREENING

### Section 13.01.01. Intent.

The provisions in this Section are intended to set minimum standards for the design, installation, and maintenance of landscaping, greenbelts, and screening for the protection and enhancement of Shelby's environment. Landscaping and screening enhances the visual image of the Village, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction associated with certain uses. The intent of these provisions includes, but is not limited to the following:

- A. Promote the implementation of the Village of Shelby Master Plan;
- B. Define, articulate, and integrate outdoor spaces, architectural elements, and various site elements;
- C. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way;
- D. Protect and preserve the appearance, character, and value of the residential uses that abut nonresidential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety, and welfare, by requiring complementary landscaping treatments and providing transitional areas adjacent to natural areas;
- E. Reduce soil erosion and depletion by utilizing vegetative root systems to stabilize soils and foliage to reduce the effects of erosive winds and water;
- F. Increase stormwater retention and slow the movement of water, thereby helping to prevent flooding;
- G. Provide reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein;
- H. Recognize and preserve natural areas such as woodlands, wetlands, and floodplains within and adjacent to a development site;
- I. Encourage the preservation of larger, native trees that, once destroyed, can only be replaced after generations; and
- J. Support wildlife and natural systems through the planting of native vegetation.

### Section 13.01.02. Applicability.

The regulations of this Chapter are applicable to all proposed developments requiring a site plan pursuant to this Ordinance, any new parking lot, and any addition of 10 or more spaces to an existing parking lot.



### **Section 13.01.03. Landscape Plan.**

Whenever a landscape screen or landscape planting is required by the provisions of this Ordinance, a landscape plan shall be provided for review by the Zoning Administrator and/or Planning Commission. The landscape plan shall demonstrate that all requirements of this Section are met, and shall at a minimum, include the following information:

- A. A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, parcel lines, parcel area and north arrow.
- B. The minimum scale of the drawing shall be one (1) inch equals thirty (30) feet.
- C. Proposed and existing man-made features, including buildings, structures, and parking areas.
- D. Setback lines and their dimensions.
- E. Location of existing and proposed driveways and curb cuts, if any.
- F. Location of existing public and private rights-of-way and easements contiguous to and on the property.
- G. Natural features, including trees with a diameter at breast height of three (3) inches or more, water bodies and wetlands, high-risk erosion areas, slopes in excess of twenty-five (25) percent, drainage and similar features; and an indication of which features would be preserved.
- H. Proposed location of plantings, spacing between plantings, height and size at time of planting, type of plantings (common and botanical names), and other elements to illustrate compliance with the standards of this Chapter.
- I. Description of the types of equipment and methods to be used to irrigate the required landscape areas, if any.
- J. A landscape maintenance program, including a statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this section and identifying the individual(s) or business(s) who will be responsible for continued maintenance of the landscaping.
- K. A detailed description of either written or graphic form, indicating the applicant's plans to protect the existing trees to be preserved from damage during site development and construction such as dripline fencing, tree wells and culverts.
- L. Location, height, elevation/section and material of proposed screening walls, fencing, retaining walls, and berming. Berms are to be delineated by one-foot contours.
- M. Where berms are used, the plan shall depict a typical cross section including the slope, height, and width of the berm and the type of ground cover. Where a wall is used, the landscape plan shall depict typical cross sections of the wall construction and footings.

- N. Calculation verifying minimum landscape requirements such as quantities/areas of plantings for parking areas, screening areas, or greenbelts.
- O. Any other information as may be required by the Zoning Administrator to aid in the review of the landscaping plan.
- P. The Zoning Administrator may waive the submission of items detailed above if such information is not necessary or relevant, based on the scope and scale of the project.

#### **Section 13.01.04. General Requirements.**

The following general requirements shall be met by all landscaping plans.

- A. Occupancy Certificates. All required screens, buffer areas, and landscaping plantings shall be planted in accordance with the approved landscape plan, and a certificate of occupancy shall not be issued until the screen, buffer area, and landscape planting has been completed in accordance with the approved plan. If a use is ready for occupancy between November 1 and March 31, a temporary certificate of occupancy may be issued, provided a performance guarantee, as regulated in **Section** has been provided in an amount equal to the estimated cost of the landscape improvements. In any case, all required landscaping must be complete by June 30 following issuance of the temporary certificate of occupancy.
- B. Disturbed Ground Areas. All disturbed ground areas shall be stabilized with dense vegetative materials, including grass, shrubs, and ground covers consistent with these provisions and native to Oceana County.
- C. Street Trees. Where a parkway exists or is proposed, street trees shall be planted within the parkway along public and private streets in all developments requiring site plan approval.
  - 1. Street trees shall be deciduous and capable of achieving a mature canopy diameter of at least twenty-five (25) feet;
  - 2. Provide branching structures which naturally grow, have been trained, or will be pruned to at least seven (7) feet above pedestrian and fourteen (14) feet above vehicular traffic areas;
  - 3. Shall be planted thirty (30) feet on center; and
  - 4. Be tolerant of urban conditions, such as pollution, salt, and drought. See the list of Suggested Native Plant Species in this section for several suitable street tree varieties.
- D. Irrigation. Methods of temporary and permanent irrigation for trees and all landscape areas must be specified. Landscape areas larger than one-thousand (1,000) square feet in area and landscape areas within parking lots shall be provided with an underground irrigation system. To encourage sustainable landscape practices and the use of natural water sources, the Planning Commission may approve an acceptable alternative water supply if the applicant/owner can demonstrate the use of drought-tolerant varieties and other natural sources of

irrigation such as swales and rain gardens. If the alternative irrigation fails to maintain the landscaping in a healthy state, the property owner shall be required to install traditional methods of irrigation sufficient to maintain the plants. All irrigation shall utilize sustainable practices to the greatest extent practicable.

- E. Fractional Plant Requirements. Where this Section requires landscaping for any distance along a property or other line, and an applicant's property is a fraction of the given measurement, then the property's measurement shall be rounded to the next highest number to comply with the minimum standards herein. Driveways and other paved points of access shall not be included in frontage calculations.
- F. Visual Clearance. Landscaping shall be installed such that, when mature, it does not obstruct or obscure traffic signs, fire hydrants, lighting, drainage patterns on the site or adjacent properties, or obstruct vision for safety of ingress and egress, and is subject to the clear vision corner requirements of this Ordinance, as regulated in Section 3.06 of this Ordinance.
- G. Credit for Existing Vegetation. Existing healthy, well-formed trees, shrubs, and herbaceous perennials may be credited towards the requirements of this Section provided the vegetation is identified on the landscape plan, protected from harm during construction, located in an appropriate place, and maintained in a healthy growing condition.
- H. Tree Preservation. Existing healthy trees located within required setbacks and areas not required for development shall be preserved, and may be counted toward the number of trees required.
  - 1. All trees to be preserved as indicated on the landscape plan shall be sheltered by a protective fence and shall remain upright and intact until all construction activity is complete. Construction activities, including driving of machinery or pedestrian movements, and the storage of equipment shall not occur within these protected areas. Tree protection barriers shall extend at a minimum to the drip line of trees which have been identified for preservation.
  - 2. Should any tree designated for preservation fail to thrive as a result of pre-construction, construction, or post-construction activities, the owner shall calculate the diameter breast height (DBH) inches of the damaged tree and replace with tree(s) equivalent in caliper inches to the total DBH inches lost.
- I. Tree Removal and Replacement. All reasonable attempts to conserve established, high-quality canopy trees shall be made. Trees specified for removal measuring twelve (12) diameter breast height (DBH) inches or more shall be subject to the following tree replacement standards.
  - 1. Trees must be replaced in caliper inches at a rate of 50% of the total DBH removed. Replacement deciduous trees shall be at least three (3) caliper inches and replacement evergreen trees shall be at least eight (8) feet in height.
  - 2. Exceptions to the replacement of trees measuring twelve (12) diameter breast height (DBH) inches or more shall be limited to the following:

- a. When no feasible and prudent alternative location can be had without causing undue hardship;
  - b. When the tree is dead, diseased, injured or is a danger to existing structures, utility service, or interferes with safe vision clearances;
  - c. Or if the tree is listed in the prohibited varieties table at the end of this Chapter.
- J. Maintenance and Replacement of Plant Material. Landscaping shall be installed and maintained in a healthy, neat, and orderly appearance, free from refuse, debris, and weeds. Plant materials, including lawn, shall be maintained in a substantially weed free, healthy growing condition, neat and orderly in appearance in accordance with the approved site plan and detailed planting plan. Plants shall be controlled by pruning, trimming, or other suitable methods so that they do not interfere with public utilities, restrict pedestrian or vehicular access, or constitute a traffic hazard. All unhealthy and dead plant material shall be replaced within one (1) year or in the next appropriate planting period, whichever comes first. A description of the proposed maintenance program shall be submitted with the detailed planting plan, including a statement that all diseased, damaged, or dead materials will be replaced in accord with the Ordinance.
- K. Revised Site Plan. No landscaped area may be abandoned, paved, or otherwise employed without submission and approval of a revised site plan, in accordance with Chapter 12.
- L. Performance Guarantee. The Zoning Administrator or Planning Commission may require a performance guarantee per **Section** of this Ordinance to ensure proper installation and maintenance of all required landscaping.
- M. The Planning Commission and Village Council may lessen the requirements of this section if site conditions make the strict application of these regulations unreasonable, assuming the applicant could provide for sufficient buffering between dissimilar uses and between expanses of parking and rights-of-way or if existing landscaping meets the intent of this Chapter. Additional requirements on landscaping may be imposed if such modification would further the intent of this Chapter.
- N. The Planning Commission and Village Council may retain the services of a landscape architect or other similarly qualified professional to review a landscape plan to ensure compliance with this Chapter.

#### **Section 13.01.05. Required Landscaping.**

- A. Transition Strips. For every instance where a land use requiring site plan review abuts a single-family two-family dwelling, or where a nonresidential use abuts a residential use or zoning district, there shall be provided a transition strip. Such transition strip may also be required of a planned development district where it abuts another district.

1. A transition strip of not less than 10 feet in width shall be provided along every lot line which abuts a residential district or use. In the case of an industrial district abutting any other district, there shall be provided a transition strip a minimum of 30 feet in width.
  2. The transition strip shall consist of an attractively landscaped barrier of hedges, trees, or other natural vegetation sufficient in density to provide adequate screening between developed areas of the property and adjacent property. The minimum height of such barrier shall be such as to provide a reasonable degree of privacy to adjacent property, but shall not be less than four (4) feet.
  3. Where the nature of the terrain is such that a wider transition strip is needed to maintain the character of the adjacent district, the Planning Commission shall establish the width of such strip.
- B. Outdoor Storage. Any portion of land used for the outdoor storage of goods, materials, or equipment shall be totally enclosed by a wall, fence, and/or landscaping, so as to screen such storage area from the public streets and adjoining properties. Outdoor storage shall be screening in accordance with the following standards:
1. Such wall, fence, and/or landscaping shall be no less than five feet in height in the Commercial districts or no less than eight feet in the Industrial district. Depending on land usage, taller fencing may be required along those property lines that abut a residential district.
  2. Any goods, materials, or equipment shall not be stacked higher than the wall, fence, or screen.
  3. A chain link fence together with dense evergreen shrub planting may be considered a screening wall upon approval of the Zoning Administrator. All fencing and landscaping must be submitted with the site plan and approved by the Zoning Administrator.
- C. Parking Areas. In addition to the site landscaping required in A and B above, any off-street parking area containing twenty (20) or more parking spaces shall be landscaped according to the following requirements:
1. All required interior landscaped areas shall be protected by a barrier (i.e. a raised standard or rolled concrete curb), except where landscape islands in parking lots are being utilized as part of a stormwater detention or conveyance system.
  2. In the case of a shared parking lot, screening and greenbelts shall not be required along the common property line.
  3. The interior portion of the parking lot shall contain landscaped areas consisting of one square foot of landscaped area for every twelve and one-half (12.5) square feet of pavement, or fraction thereof, and one (1) deciduous tree for every two hundred (200) square feet, or portion thereof, of landscaped area provided.

4. Each landscaped area shall be a minimum of two hundred (200) square feet, with a minimum width of ten (10) feet, and shall include one (1) deciduous tree. In addition to the tree, each landscaped area shall be covered with living vegetative materials such as shrubs, grasses, and flowers, and may include no more than fifty (50) percent exposed surface area of natural mulch materials.
5. At least fifty (50) percent of the deciduous trees within the landscape areas shall be canopy trees, able of achieving a mature canopy diameter of at least twenty-five (25) feet.
6. The landscaped areas shall be dispersed throughout the parking lot in order to break up and soften large expanses of impervious surface and to define access and circulation patterns.
7. The Planning Commission may permit the required landscape areas to be combined into larger areas if they find that the resulting landscape area is of a higher quality and meets the intent of this Chapter to visually enhance the parking lot.
8. Sizes of plant materials at installation shall comply with the minimum landscape material standards in Section \_\_\_\_\_.

D. Front Yard Landscaping. Except as otherwise provided in Section 13.14.03(4)(B) below, for every lot in the IND, C-1, C-2, R-3, or R-4 districts, front yard landscaping is required as specified below (Fig. 13.05):

1. Landscaping shall consist of a minimum of one canopy tree and three deciduous shrubs for each 30 feet of lot width.
2. Additional front yard landscaping is encouraged and may be required by the Village where it is found that such additional landscaping would further the intent of this Section.

E. Storage and Dumpsters. Exposed storage areas, trash receptacles and dumpsters, machinery installations, service areas, loading docks, utility buildings and utility structures such as electrical transformers, air conditioners, and similar features shall be screened from view from adjoining streets and properties by a screen of sufficient height to obscure the view of the equipment. Dumpster enclosures shall comply with the following requirements.

1. Dumpster enclosures shall be sturdy and constructed of quality, durable materials such as privacy or shadowbox fence, masonry, split-face block, etc. and shall be generally compatible in character and appearance to the principal structure. Chain link, wire, or cyclone fencing materials are prohibited.
2. The enclosure shall be four (4) sided and placed on a concrete pad.
3. The enclosure shall be four (4) sided with lockable opaque gates which complement the screen materials. The Zoning Administrator or Planning Commission may permit the enclosure to be three (3) sided where site dimensions make a four (4) sided enclosure impractical and where the three (3)

sided enclosure will effectively screen the dumpster from view from the adjoining right-of-way.

4. Walls of the enclosure shall be six (6) feet in height.
5. When a dumpster is added to any developed site for regular use, such dumpster shall be enclosed pursuant to this section.

**Section 13.01.06. Minimum Landscape Material Standards.**

- A. All plant material shall be hardy to Oceana County, be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.
- B. Diversity. The overall landscape plan shall not contain more than twenty-five (25) percent of any one species.
- C. Native Vegetation. At least seventy (70) percent of new plantings shall be species native to West Michigan.
- D. Unless otherwise specified herein, deciduous trees shall have a minimum caliper of two and one-half (2 ½) inches at time of planting, measured at four (4) feet from grade.
- E. Unless otherwise specified herein, deciduous ornamental trees shall have a minimum caliper of two (2) inches at time of planting, measured at four (4) feet from grade.
- F. Evergreen trees shall be a minimum of six (6) feet in height at the time of planting. Evergreen trees may be planted in staggered rows to provide space for spreading and growth.
- G. Shrubs shall be at least thirty (30) inches in height at time of planting with a minimum spread of twenty-four (24) inches.
- H. Ornamental grasses and perennials shall be a minimum pot size of two gallons when planted.
- I. The following are suggested native plant species, and the use of native species is encouraged.

**Suggested Native Plant Species**

Plant Type	Common Name	Botanical Name
Canopy Trees	Red Oak	<i>Quercus rubra</i>
	Hackberry	<i>Celtis occidentalis</i>
	American Hornbeam	<i>Carpinus caroliniana</i>
	Black Oak	<i>Quercus velutina</i>
	Ironwood	<i>Ostrya virginiana</i>
	Kentucky Coffee Tree (Fruitless Varieties)	<i>Cymnocladus dioicus</i>

	Red Maple	<i>Acer rubrum</i>
	Sugar Maple	<i>Acer saccharum</i>
	White Oak	<i>Quercus alba</i>
	Sycamore	<i>Platanus occidentalis</i>
	Thornless Honeylocust	<i>Gleditsia triacanthos f. inermis</i>
	River Birch	<i>Betula nigra</i>
	Osage orange (Fruitless Varieties)	<i>Maclura pomifera</i>
	Black Gum	<i>Nyssa sylvatica</i>
Ornamental Trees	American Hazelnut	<i>Corylus americana</i>
	Eastern Red Bud	<i>Cercis canadensis</i>
	Cockspur hawthorn	<i>Crataegus crus-galli</i>
	Pagoda Dogwood (Tree Form)	<i>Cornus alternifolia</i>
	Fringe Tree	<i>Chionanthus virginicus</i>
	Allegheny Serviceberry	<i>Amelanchier laevis</i>
Evergreen Trees	Eastern White Pine	<i>Pinus strobus</i>
	Red Cedar	<i>Juniperus virginiana</i>
	White Spruce	<i>Picea glauca</i>
	Balsam Fir	<i>Abies balsamea</i>
	Canadian Hemlock	<i>Tsuga canadensis</i>
Shrubs	Bush Honeysuckle	<i>Diervilla lonicera</i>
	Common Juniper	<i>Juniperus communis</i>
	Red osier dogwood	<i>Cornus sericea</i>
	Highbush Blueberry	<i>Vaccinium corymbosum</i>
	New Jersey Tea	<i>Ceanothus americanus</i>
	Carolina Rose	<i>Rosa carolina</i>
	Fragrant Sumac	<i>Rhus aromatica</i>
	Common Witch Hazel	<i>Hamamelis virginiana</i>
	Michigan Holly	<i>Ilex verticillata</i>
	Buttonbush	<i>Cephalanthus occidentalis</i>
	Spice Bush	<i>Lindera benzoin</i>
	Shrubby cinquefoil	<i>Potentilla fruticosa</i>
	Creeping Juniper	<i>Juniperus horizontalis</i>
	American Arborvitae	<i>Thuja occidentalis</i>
Ornamental Grasses and Perennials	Palm Sedge	<i>Carex muskingumensis</i>
	Little bluestem	<i>Schizachyrium scoparium</i>
	Switchgrass	<i>Panicum virgatum</i>
	Tufted Hairgrass	<i>Deschampsia cespitosa</i>
	Sundial Lupine	<i>Lupinus perennis</i>
	Bee Balm	<i>Monarda fistulosa</i>
	Black-Eyed Susan	<i>Rudbeckia hirta</i>



	Sweet Joe Pye Weed	<i>Eupatorium purpureum</i>
	Cardinal Flower	<i>Lobelia cardinalis</i>
	Butterfly Weed	<i>Asclepias tuberosa</i>
	New England Aster	<i>Aster novae-angliae</i>
	Blue Stemmed Goldenrod	<i>Solidago caesia</i>
	Columbine	<i>Aquilegia canadensis</i>
	Wild Blue Phlox	<i>Phlox divaricata</i>

J. The following trees are not permitted in an effort to protect the health, safety, and welfare of the Village. Some of the plant species listed below are prone to splitting; having wood that is brittle and breaks easily; roots which clog drains and sewers; and or may be unusually susceptible to disease or insect pests. Existing trees of these species may not be counted toward the required number of trees for the development and need not be preserved on the development site. The plants included in this list denoted with an asterisk, have native varieties which are species permitted in naturalized locations where limited contact with people, vehicles, and structures can be obtained.

**Prohibited Trees**

<b>Common Name</b>	<b>Botanical Name</b>
Box Elder	<i>Acer Negundo*</i>
Tree of Heaven	<i>Ailanthus</i>
Ginkgo (Female)	<i>Ginkgo Biloba</i>
Ash	<i>Fraxinus</i>
Honey Locust (with thorns)	<i>Gleditsia Triacanthos (with thorns)</i>
Eastern Cottonwood	<i>Populus Deltoids*</i>
Mulberry	<i>Morus species (Morus rubra*)</i>
Black Locust	<i>Robinia species*</i>
Catalpa	<i>Catalpa species*</i>
Chinese Elm	<i>Ulmus Parvifola</i>
Silver Maple	<i>Acer Saccharinum*</i>
Willow Tree	<i>Salix tree species*</i>
Bradford Pear	<i>Pyrus calleryana 'Bradford'</i>
Norway Maple	<i>Acer platanoides</i>

## **SECTION 13.02. PARKING AND LOADING**

### **Section 13.02.01. Purpose and Intent**

The purpose of this Chapter is to ensure there is adequate area to provide parking for motor vehicles, temporary storage of vehicles, and loading and unloading space within the Village of Shelby. Through the parking provisions in this Chapter, it is the intent of the Village to encourage safe vehicular circulation, efficient traffic flow on roadways, and safe interactions between vehicles and pedestrians. Additionally, this Chapter is intended to prevent “over-parking” and excessive parking area pavement, which can cause stormwater runoff issues and hinder pedestrian connectivity in commercial areas.

### **Section 13.02.02. Applicability**

In all zoning districts, after the effective date of this Ordinance, off-street parking facilities shall be provided for any new building, structure, or use; for any addition or enlargement to an existing building, structure, or use; or for any change of use to an existing structure, according to the standards in this Chapter. For additions or enlargements to an existing building, structure, or use, or change in use of an existing building or structure, additional parking shall be required only for such addition, enlargement, or incremental increase in required parking due to such change in use, and not for the existing building or structure or previous use.

### **Section 13.03.03. Location of Facilities**

Off-street parking facilities shall be located as hereafter specified. When a distance is specified, it shall be the walking distance measured from the nearest point of the parking facility to nearest normal entrance to the building or use that such facility is required to serve. Property owners shall be responsible for maintaining the minimum standards set forth herein.

- A. Unless otherwise permitted, all residential districts and uses shall be provided with required off-street parking facilities on the premises they are intended to serve. For single and two-family dwellings, off-street parking shall consist of a driveway and typically a garage, or combination thereof, and shall not be permitted in the required front yard except on a driveway. Parking shall not occur in lawn areas.
- B. For all non-residential buildings and uses in residential zoning districts, required off-street parking shall be provided on the premises with the building or use they are intended to serve.
- C. For all non-residential or mixed-use buildings and uses in the C-1 and C-2 districts, off-street required parking shall be provided on the premises or within 300 feet of the building or use they are intended to serve. In the IND District, off-street required

parking shall be provided on the premises or within 1,000 feet of the building or use they are intended to serve.

- D. In the C-2 District, on-street or off-street public parking spaces within 400 feet of the building or use they are intended to serve may be counted toward the minimum parking requirement.

**Section 13.03.04. Number of Off-Street Parking Spaces Required (NEED TO UPDATE)**

The minimum number of required off-street parking spaces on a site shall be determined in accordance with the following table. The minimum requirements below may be adjusted per Section 13.05.05.

Required Off-Street Parking Spaces	
Use	Minimum Parking Spaces Required
Assisted living facilities	1 for each 5 beds
Drive through business	5 stacking spaces per drive-through lane with window service or 3 stacking spaces for drive-through ATM, in addition to any spaces required for the non-drive-through uses
Dwellings, single and two-family	2 for each dwelling unit
Dwellings, multiple-family	1.5 for each dwelling unit
Education: private, elementary, and junior high schools	2 for each 3 employees normally engaged in or about the building and grounds
Education: Senior high schools and institutions of higher learning	2 for each 3 employees normally engaged in or about the buildings and grounds, and 1 additional for each 10 students enrolled in the institution
Equipment rental and repair	1 per 400 square feet of gross floor area
Financial institutions	1 for each 200 square feet of floor area
Gas stations	1 space per 150 square feet dedicated to retail activity, plus 1 space at each fuel pump, plus 1 stacking space per fuel nozzle
Hospitals	1 for each 3 beds dedicated to in-patient care, plus 1 for every 3 employees on the largest shift, plus 1 for each 1,000 square feet dedicated to out-patient services
Indoor entertainment establishments	1 for each 3 persons allowed within the maximum occupancy permitted by building code
Libraries, museums, and post offices	1 for each 500 square feet of floor area
Live/work	1 per unit, plus 1 per 500 square feet of space devoted to business use
Manufacturing, processing, and/or assembly buildings; machine shops; print, publishing, and related services; and/or other facilities	1 for each employee on the maximum shift or peak employment period

related, but not necessarily connected to a manufacturing or industrial building	
Medical clinics or offices	1 for each 250 square feet plus 1 for each employee on the largest shift
Mortuaries or funeral homes	1 for each employee on the largest shift, plus 1 per 4 seats of legal capacity
Hotels, Motels, and resorts	1 for each guest room, plus amount required for other uses on the premises, plus 1 per employee on the largest shift
Open air business	1 space per 350 square feet of indoor space devoted to retail activity, plus 1 space for each 2,000 square feet of outdoor display area
Outdoor entertainment event venue	Applicant shall demonstrate parking demand
Outdoor recreation	Applicant shall demonstrate parking demand
Outdoor storage facility or yard	1 space per employee on the largest shift, plus 1 space for each 500 square feet of useable floor area
Personal service establishments	1 for each 300 square feet of gross floor area
Place of public assembly	1 for each 4 seats of legal capacity
Private clubs and lodges	1 for each 300 square feet of usable floor area
Professional offices	1 for each 300 square feet of gross floor area
Public buildings not specifically mentioned elsewhere	1 for each 300 square feet of gross floor area
Residential over retail or office	1.5 spaces for each dwelling unit, plus parking for the nonresidential uses as determined in this table
Restaurants and nightclubs	1 for each 3 persons of legal capacity
Retail establishment	1 for each 200 square feet of gross floor area
Self storage facilities	Applicant shall demonstrate parking demand
Vehicle sales facilities	1 for each 500 square feet of gross floor area, plus 1 for each 1,000 square feet of outdoor lot area
Vehicle service and repair facilities, major or minor	1 space per employee of largest shift, plus 1 space per service bay
Vehicle wash	3 stacking spaces per bay, plus 1 space per 350 square feet of retail/office space, not including care wash bays
Warehouses	1 for each employee on the largest shift, plus 5 visitor spaces

**Section 13.03.05. Adjustment of Standards**

The Planning Commission may modify parking requirements if satisfactory evidence is provided by the applicant that demonstrates the need for an increased or decreased

number of parking spaces. The applicant shall submit, in writing, justification for the proposed adjustment. Modifications shall not result in inadequate parking area; large, unwarranted amounts of unused parking space; or a reduction in critical open space or natural features. In addition, in approving any request to modify the parking standards, the Planning Commission must find that the proposed quantity of parking spaces would be consistent with Section 13.02.01 and protect the public health, safety, and welfare.

#### **Section 13.03.06. General Standards**

- A. Before any building or structure is occupied, enlarged, or increased in capacity, parking shall be provided in accordance with the number of spaces required in Section 13.03.04.
- B. For any use not specifically listed in Section 13.03.04, the Zoning Administrator or Planning Commission shall apply the parking requirements for the most similar use or use technical publications from entities such as the Institute of Transportation Engineers or other similar objective standards.
- C. Fractional Space. When calculations determining the number of parking spaces result in a fractional space, the fraction under 1/2 shall be disregarded, and fractions of 1/2 and over shall be counted as one parking space.
- D. Joint Use of Facilities. Provision of common parking facilities for several uses in the same vicinity is encouraged. In the case of two or more uses on the same premises, a parking lot may be shared if the total space requirement for off-street parking facilities is the sum of the individual uses computed separately. The requirement for shared parking spaces may be reduced only under the following circumstances:
  - 1. If a use is accessory to the principal use and is not intended to serve additional patrons or employees; or
  - 2. If the peak demand for the uses occur at distinctly different times of the day from the peaks of the other use(s), as determined by the Zoning Administrator or Planning commission.
- E. Deferred Parking. Where the property owner/applicant can demonstrate that the required amount of parking is excessive, a portion of the required parking area may be deferred until some future date if the following conditions are met:
  - 1. Areas shown for deferred parking shall be shown on a site plan and shall be of sufficient area to permit the construction of the total number of parking spaces required by this Chapter.
  - 2. Such areas shall only be used as open landscaped space until parking is constructed.
  - 3. Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the Zoning Administrator based on

parking needs and shall require the submission and approval of an amended site plan as required in Chapter .

- F. Supplemental Bike Parking. For buildings and uses with 20 or more off-street parking spaces, up to five off-street parking spaces may be replaced with bicycle parking or bicycle racks equal to at least the number of off-street parking spaces being replaced.
- G. Shared Parking and Public Parking. The joint or collective provision of off-street parking for mixed uses in the same building or buildings or uses on two (2) or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately. However, for buildings or uses where the peak parking demand does not overlap, the Zoning Administrator or Planning Commission may authorize a reduction of up to 50% in the collective number of off-street parking spaces required by this Chapter.
- H. Screening. Off-street parking facilities shall be effectively screened pursuant to Section [REDACTED] of this Ordinance.
- I. Lighting. Off-street parking facilities shall be arranged and designed pursuant to Section [REDACTED] of this Ordinance.

### **Section 13.03.07. Construction, Layout, and Maintenance**

- A. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any street, walk or alley, and so that any automobile may be parked and moved without disturbing another vehicle.
- B. Adequate ingress and egress shall be provided to the parking lot by means of clearly limited and defined drives so located as to minimize traffic congestion.
- C. All off-street parking and loading facilities required by this Chapter shall be maintained free of accumulated snow, debris, or other materials preventing full use and occupancy of such facilities in accordance with the intent of this Chapter, except for temporary periods of short duration in the event of heavy snowfall.
- D. All driveways and parking areas shall be provided with pavements having an asphalt, cement, or similar alternative all-weather, dustless material approved by the Village.
- E. Off-street parking and loading areas shall be graded and drained to dispose of all surface water accumulated within the area in such a way as to preclude drainage of water onto adjacent property, the public right-of-way, or toward buildings. Preference shall be given to drainage designs which include rain gardens, sunken landscape islands, or other forms of green infrastructure.
- F. Bumper stops or wheel chocks shall be provided as necessary, or as required by the Village, and located so as to prevent any vehicle from projecting over the lot line or onto a sidewalk.

- G. Off-street parking facilities shall include barrier free parking spaces reserved for physically handicapped persons, and be designed in accordance with PA 1 of 1966 (MCL 125.1351-1356, Barrier Free Design) and the 2010 ADA Standards for Accessible Design. Barrier free parking spaces shall count towards the minimum off-street parking requirement.
- H. Dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements in the following table:

Parking Angle	Parking Space Dimensions			
	Maneuvering Aisle Width		Parking Space	
	1 Way	2 Way	Width	Length
0 degrees (parallel)	12 feet	22 feet	8.5 feet	22 feet
30-53 degrees	12 feet	24 feet	9 feet	20 feet
54-74 degrees	15 feet	24 feet	9 feet	20 feet
75-90 degrees	15 feet	24 feet	9 feet	20 feet

### Section 13.03.08. Loading / Unloading Spaces

- A. For every building or addition to an existing building hereafter erected to be used for manufacturing, storage, display of goods, retail store or block of stores over 10,000 square feet, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other similar uses requiring the receipt or distribution, in vehicles, of materials or merchandise, there shall be provided and maintained on the same premises with such building or addition off-street loading/unloading spaces in relation to floor area as follows:
1. Up to 20,000 square feet: one space.
  2. Twenty thousand to 50,000 square feet: two spaces.
  3. Fifty thousand to 100,000 square feet: three spaces.
  4. One additional space for each additional 100,000 square feet or fraction thereof.
- B. General Loading/Unloading Requirements.
1. Each such loading/unloading space shall be at least 10 feet in width, 25 feet in length and 14 feet in height scaled to delivery vehicles expected to be used.
  2. No such space shall be located closer than 50 feet to any lot in any residential district unless wholly within a completely enclosed building or enclosed on all sides by a wall or a uniformly appointed solid board or masonry fence of uniform appearance not less than six feet in height or by a transition strip as defined in this Ordinance.
  3. No such space shall be located within the required front yard of a lot.
  4. Required loading/unloading spaces shall not be included in calculations for parking spaces needed to meet general parking requirements.

5. Where an applicant demonstrates that a loading space is not necessary to serve the proposed use, the Planning Commission or Zoning Administrator may waive the requirements of this Section 13.03.08.

## **SECTION 13.03. SIGNS**

### **Section 13.03.01. Purpose and Intent**

It is the intent of this Chapter to regulate signs in the Village so as to protect public health, safety, aesthetics, and general public welfare of residents in the Village of Shelby. This Chapter is further intended to protect all zoning districts from chaos and clutter, prevent injurious impacts from obstructed vision, eliminate distractions hazardous to motorists, protect uses from excessive signage, protect property values, and provide the public with the ability to identify premises and establishments. Additionally, the provisions of this Chapter are intended to encourage the attractiveness of the Village, showing special attention to its value of cultural and natural features. This is accomplished by regulating the size, placement, relationship, construction, illumination, and other aspects of signs in the Village.

### **Section 13.03.01. Sign Permit Required**

- A. Permit Required. It shall be unlawful for any person to erect, place, relocate, structurally alter, or repair any sign within the Village, except with the provisions of this Chapter. Unless listed as an exempt sign in Section 16.06, a permit is required for the construction or reconstruction of signs.
- B. Application. Application for a permit shall be made by submitting the following information to the Zoning Administrator:
  1. A completed sign permit application on a form provided by the Village;
  2. Payment of an application fee, which shall be nonrefundable, and which shall be established from time to time by resolution of the Village Council;
  3. A sketch plan with signs drawn to scale, showing the proposed location, type of sign, and specifications for the proposed sign, in detail sufficient to determine its compliance with the provisions of this Chapter;
  4. Sufficient other details to demonstrate that the proposed sign, including structural and electrical components, shall comply with the provisions of this Ordinance; and
  5. The written consent of the owner of record of the property on which the sign is proposed to be erected.
- C. No sign requiring a permit shall be erected or installed until an application is approved.



- D. The Zoning Administrator shall grant permits if all regulations in this Chapter have been met. However, the Zoning Administrator may, at his/her discretion, bring any application for a building permit before the Village Planning Commission for their recommendations and/or approval prior to the issuance of it.
- E. No permit is required for the routine maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.
- F. Duration. Any sign permit may include a provision limiting the time for which the permit is valid.
- G. Expiration. Approval of a sign permit shall expire one year from its effective date. If the sign is not completed within one year, unless an extension not to exceed one year has been granted by the Zoning Administrator, the permit shall expire. The Zoning Administrator may deny extension of time for the approved sign even if no substantial changes in circumstances are found.

### **Section 13.03.03. General Sign Standards**

All signs shall meet the following general standards:

#### **A. Sign area.**

1. The area of a sign shall be measured within a single perimeter composed of not more than eight straight lines, which enclose the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports, braces, and/or uprights on which such sign is placed.
2. Where the sign has two or more faces placed back-to-back and are at no point more than two feet apart from one another, the area of the sign shall be computed by the measurement of one of the faces if the two faces are of equal area. When the faces are not equal in size, the area of the larger face shall be used. In the case of a sphere, the total surface area of the sphere shall be divided by two for purposes of determining the sign area.

#### **B. Height.**

1. Sign height shall be measured as the vertical dimension from the median natural grade to the highest point of the highest attached component of the sign.
2. A sign shall not extend above the roof line of a building to which it is attached.
3. Any sign, including any awning to which a sign is affixed or displayed, not resting directly on the ground shall maintain a minimum vertical clearance of eight feet.

#### **C. Setbacks.**

1. All signs shall be set back a minimum of two feet from any front lot line or right of way, except for projecting signs, and a minimum of ten feet from any side lot line.
2. No sign shall be placed in the clear vision area as shown in Section 3.06 nor in a similar clear vision area at the intersection of a driveway or private road or access with a private road or street.
3. For the purposes of this Chapter, each side of a corner lot abutting a public or private street shall be determined to be a front yard.

#### **Section 13.03.04. Sign Illumination**

A. When illumination is permitted, external or internal illumination shall comply with the following requirements:

1. Illumination shall not be flashing, oscillating, blinking, intermittent, or on-and-off type of lighting. Time and temperature numerals are exempt from this provision.
2. Electronic message boards are permitted subject to Section 16.03(5).
3. Illumination shall be arranged so that light is deflected away from adjacent properties so that no direct sources of light shall be visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.
4. No sign shall be illuminated by other than electrical means.
5. External illumination. Any external lighting of signs shall be downward facing, shielded, or otherwise directed to illuminate only the sign face.
6. Internal illumination. Sign faces shall have an opaque background so that individual lamps are muted and cannot be distinguished behind the sign face. The sign face may have internally lit lettering, face lit channel lettering, or backlit lettering.
7. Illumination for signs on properties not used for residential purposes shall only be permitted during the greater duration of (1) sunrise to one hour after sunset, or (2) hours where the use is open to the public.

#### **Section 13.03.05. Electronic Message Boards**

All electronic message boards shall be operated in accordance with the following standards:

A. In the C1 and C2 zoning districts:

1. One electronic message board sign is permitted for each street frontage.
2. Electronic message board signs shall not flash, scroll, blink, strobe, or show moving pictures, or have a similar animated effect.

3. The message shall change no more frequently than once every five seconds.
  4. The intensity and contrast of light levels on the electronic message board shall remain constant throughout the sign face. Electronic message board signs shall be fitted with automatic sensors that adjust their brightness and intensity during daylight and night time hours. The overall brightness and intensity shall only be enough to make the sign legible and shall not create a nuisance or a traffic hazard.
  5. Electronic message board signs shall be secondary to a traditional stationary sign and shall not exist as the sole sign, and in no instance shall the electronic message board comprise more than 50 percent of the total permitted sign area.
- B. For all educational facilities and places of public assembly, except for public schools under the jurisdiction of the Michigan superintendent of public instruction, electronic message boards shall comply with the following standards:
1. One electronic message board is permitted when all of the following conditions are met:
    - a. The lot is greater than two acres in size and a principal use occupies the subject lot.
    - b. Electronic message board signs shall not flash, scroll, blink, strobe, or show moving pictures.
    - c. Electronic message board signs shall be fitted with automatic sensors that adjust their brightness and intensity during daylight and nighttime hours. The overall brightness and intensity shall only be enough to make the sign legible and shall not create a nuisance or a traffic hazard.
    - d. Electronic message board signs must be turned off between 10:00 p.m. and 6:00 a.m.
    - e. Electronic message board signs shall be integrated into the traditional stationary sign and shall not exist as the sole sign, but in no instance shall such sign exceed 50 percent of the traditional stationary sign area.
    - f. Electronic message board signs shall be integrated into the traditional stationary sign and shall not exist as the sole sign, but in no instance shall such sign exceed 50 percent of the traditional stationary sign area.

**Section 13.03.06. Construction and Maintenance.**

- A. All signs shall be constructed and maintained in accordance with all applicable codes and ordinances in effect in the Village of Shelby.
- B. A sign may be either single-faced or double-faced. The face of the sign is the surface of the sign upon, against or through which the message of the sign is exhibited. In the case of the single-faced sign, the reverse surface shall be painted and/or treated so as not to be a detriment to the area.

- C. Signs shall be maintained in a safe condition with proper bracing, anchorage, and foundation and be subject to inspection by the Zoning Administrator or another designated representative. Signs shall at all times be in a state of good repair, with all braces, bolts, clips, supporting frame, and fastenings free from deterioration, insect infestation, rot, rust or loosening. All signs shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant metals.

#### **Section 13.04.07. Exempt Signs**

The following signs are exempt from the permitting requirements of this Chapter, but they shall conform to any other applicable standards of this Ordinance.

- A. Flags, except when displaying commercial speech.
- B. Signs directing and guiding traffic and parking on private property, but bearing no commercial speech.
- C. Any public notice, traffic control, or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- D. Government signs.
- E. One sign per street address not exceeding one square foot in area and bearing only property numbers, post box numbers, or names of occupants of residential premises and bearing no commercial speech.
- F. Any sign wholly located within a building and not visible from outside the building.
- G. Window signs, provided that sign coverage shall not exceed 25 percent of window area per building elevation.
- H. Holiday lights and decorations with no commercial speech.
- I. Works of art with no commercial speech.
- J. Temporary banners covering a permitted and approved sign, provided that the banner does not exceed the size of the permitted and approved sign and meets the following standards:
  - 1. The banner shall not obscure traffic or pedestrian visibility in any manner;
  - 2. The banner shall not be tied to any utility poles;
  - 3. The banner shall be located at least 20 feet from the edge of the road right-of-way; and
  - 4. The banner shall be placed so that the lower edge of the banner is at least eight feet off the ground.
  - 5. The banner shall be displayed for not more than 60 days, except that one 60-day extension may be approved by the Zoning Administrator.

- K. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

#### **Section 13.04.08. Temporary signs**

Temporary signs shall comply with the following standards:

##### **A. Residential Uses.**

1. On any lot used as a single-family, two-family, or owner occupied multi-family dwelling, up to four (4) temporary signs shall be permitted to be displayed on a pole or stake affixed to the ground.
2. Such signs shall not exceed six (6) square feet in area per side, and the top of such sign shall be no more than six (6) feet from ground level.
3. Such signs may display noncommercial messages or on-premises commercial messages (including, but not limited to, messages conveying that the dwelling is for sale, that work is being performed on the dwelling by a particular individual or business, or that a garage sale will be held).
4. Signs placed in conformance with the above standards 1-3 are exempt from the permitting requirements of this Chapter.

##### **B. Non-Residential Uses.**

1. On any lot used for a non-residential use, one (1) non-permanent sign may be displayed up to for (4) times per calendar year for a period of not more than 30 days per display, provided that each display shall be separated by at least 30 days.
2. Such signs shall not exceed 32 square feet.
3. If building mounted, these signs must be flat wall signs and shall not project above the roofline.
4. If ground mounted, the top shall be no more than six feet above ground level.
5. Such signs may be used to promote noncommercial community events, but are not limited to that purpose.
6. Signs intended to be utilized on an interim basis until a permanent sign may be obtained and erected may be approved by the zoning administrator for a period not to exceed 60 days. Such signs shall not exceed sign area permitted in Section 16.06.
7. A sign permit shall be required for temporary signs located on lots containing non-residential uses.

#### **Section 13.04.09. Prohibited signs**

The following signs are prohibited in any zoning district:

- A. Signs which are illegal under state laws or regulations or applicable local ordinances or regulations, and which are not consistent with the standards in this ordinance.
- B. Signs that are not clean and in good repair, and signs that are out of compliance with applicable building and electrical codes.
- C. Signs not securely affixed to a supporting structure.
- D. Signs that are not official traffic signs that appear to or attempt to regulate, warn, or direct the movement of traffic, which interfere with or resemble any official traffic sign, signal, or device, or which may obstruct a motorist's vision.
- E. Searchlights, air-filled balloons, and lighter-than-air signs.
- F. Signs located in, projecting into, or overhanging within a public right-of-way or dedicated public easement, except:
  - 1. Official traffic signs posted by a governmental agency;
  - 2. Informational signs of a public utility regarding its poles, lines, pipes, or facilities;
  - 3. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the right-of-way; and
  - 4. Any sign installed by the Village, County Road Commission, State of Michigan, or other governmental agency
  - 5. Projecting signs located in compliance with this Chapter.
- G. Roof signs.

#### **Section 13.04.10. Billboards**

No new billboards shall be erected in the Village of Shelby after the effective date of this Ordinance. Billboards already in existence as of the effective date of this Ordinance may continue to be displayed, provided that the billboard maintains compliance with the Highway Advertising Act of 1972, as amended, and applicable federal, state, and local regulations.

#### **Section 13.04.11. Permitted Signs**

In addition to the above standards, the following signs are allowed within the following zoning districts, provided that a sign permit is obtained from the Zoning Administrator:

- A. Government signs.
- B. Portable signs, subject to the following additional requirements:
  - 1. A portable sign shall not exceed 32 square feet in area.

2. A portable sign may contain internal illumination only and shall not contain any flashing or intermittent lights.
3. A portable sign shall not be used more than twice in any six-month period, nor for a duration exceeding 30 days. 30 days shall occur from the end of the previous use before a second permit is issued.
4. One portable sign is permitted for each lot.

C. Special purpose signs.

1. Upon submittal of a site plan pursuant to Chapter 12 of this Ordinance, the Zoning Administrator may consider approval of a special purpose sign that does not exceed the permitted sign area in the underlying zoning district, but such sign type is not contemplated in this section. In making its determination, the Planning Commission may consider:
  - a. The compatibility of the proposed sign in relationship to the type and location of signage on adjacent parcels;
  - b. The conformance of the proposed sign to the general standards for all signs; and
  - c. The durability of sign materials, and compatibility with the building for which the sign serves.

**Section 13.04.12. Signs Permitted in Residential Districts**

The following signs are permitted for nonresidential uses in the R1, R2, R3, and R4 zoning districts as provided in the table below:

Signs Permitted in R1, R2, R3, and R4 Districts					
Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted	Minimum Setback
Ground	1 per frontage	32 sq. ft. <sup>1,2</sup>	8 ft.	No 3	2 ft. from right-of-way; 10 ft. from side lot lines

<sup>1</sup> Signs located on lots containing lawful home occupations are permitted one ground sign not to exceed eight (8) square feet in area and three (3) feet in height.

<sup>2</sup> If more than one ground sign is proposed on lots with frontage on more than one street, the total cumulative area of all ground signs on the parcel shall not exceed 32 square feet.

<sup>3</sup> Signs located on lots containing churches, schools, or public buildings may be illuminated or contain electronic message boards in accordance with Section 13.03.04 and 13.03.05.

### Section 13.04.13. Signs Permitted in Nonresidential Districts

The following signs are permitted in the C1, C2, and IND zoning districts as provided in the table below.

Signs Permitted in C1, C2, and IND Districts					
Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted	Minimum Setback
Wall	One per street frontage	10% of wall surface area, but not to exceed 50 sq. ft.	Shall not extend above the building wall	Yes	N/A
Ground or Pole	One per street frontage	64 sq ft.	20 ft	Yes	2 ft. from right-of-way, 10 ft. from side lot lines, and 5 ft. from driveways
Projecting (C1 only)	One per street frontage	20 sq ft.	Shall not extend above the building wall	No	N/A

### Section 13.03.13. Nonconforming Signs

- A. Signs lawfully erected prior to the adoption of this ordinance or applicable amendment thereto that do not meet the standards of this Section may be continued, except as hereinafter provided. No nonconforming sign shall:
1. Be structurally altered so as to change the shape, size, type or design of the sign; or
  2. Be reestablished, continued, or reused after the establishment, product, or service to which it applied has been discontinued for 180 days or longer.
- B. Signs lawfully erected prior to the adoption of this ordinance or applicable amendment thereto which do not meet the size limitations of this Chapter may be changed to or replaced by another nonconforming sign, provided that the sign replacing the original nonconforming sign is at least 33 percent smaller in area than the original nonconforming sign.
- C. No sign shall be required to be removed if it was erected in compliance with the Zoning Ordinance, or if such sign becomes nonconforming due to a change occurring after the adoption of this Ordinance or applicable amendment thereto in



the location of a building, streets, or other signs, and which change is reasonably beyond the control of the owner of the premises on which the sign is located.

- D. In addition to the foregoing, signs lawfully erected prior to the adoption of this Ordinance or applicable amendment thereto shall be considered legal nonconforming structures subject to the provisions of Chapter \_\_\_\_.

## CHAPTER 15. ADMINISTRATION AND ENFORCEMENT

### SECTION 15.01. ZONING ADMINISTRATOR

- A. Where the provisions of this Ordinance authorize or direct the Zoning Administrator to perform any act or carry out any function, such act or function may also be carried out by a deputy or deputies designated by the Zoning Administrator.
- B. The Zoning Administrator shall have the power to grant zoning permits and to inspect premises necessary to carry out his/her duties in the enforcement of this Ordinance, and to otherwise carry out the duties assigned herein.
- C. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with, or prevent violations of, its provisions.
- D. It shall be unlawful for the Zoning Administrator to approve any plans or issue zoning permit for any excavation or construction or use until such plans have been reviewed in detail and are found to be in compliance with this Ordinance. To this end, the Zoning Administrator shall require that an application for a zoning permit for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this ordinance, be accompanied by a site plan, in accordance with Article XII hereof.
- E. Issuance of a zoning permit shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land. The Zoning Administrator shall have no authority to make changes to this ordinance or to vary the terms of this ordinance in carrying out his/duties.

### SECTION 15.02. ZONING PERMITS

- A. Zoning Permits. It shall be unlawful to commence the excavation or site work for or the construction of any building or other structure, including an accessory structure, or to commence the moving, or structural alteration, including an accessory structure, costing more than one hundred dollars (\$100.00) or exceeding one hundred (100) square feet in floor area, until the Zoning Administrator has issued for such work a zoning permit including a certification of their opinion that plans, specifications, and intended use of such structure do in all respects conform to the provisions of this Ordinance.
- B. It shall be unlawful to alter the contour of land, remove, or damage wetlands or sensitive areas, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has issued for such intended use a zoning permit.
- C. In all cases where a building permit is required, application for a zoning permit shall be made coincidentally with the application for a building permit and in all other cases shall be made not less than ten (10) days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. This application shall be made in writing to the Zoning Administrator and shall provide all relevant project information. A record of all such applications shall be kept on file by the Zoning Administrator.

- D. Any zoning permit issued under the provisions of this ordinance shall be valid only for a period of one year following the date of issuance thereof. Any project which has not substantially commenced within the one-year period may not be started or continued unless the permit is reissued or extended or a new zoning permit is issued.
- E. When the Zoning Administrator receives an application for a zoning permit, which requires a special land use approval, variance, or other approval, he shall so inform the applicant.
- F. Before any zoning permit shall be issued, an application and inspection fee and any required escrow fees shall be paid. The amount of such fees and escrows shall be fixed by a schedule established by resolution of the Village Council.
- G. No building or structure or use for which a land use permit has been issued shall be used or occupied until after a final inspection has been performed which indicates that all the provisions of this Ordinance are met and a certificate of occupancy has been issued by the building official. The issuance of a certificate of occupancy shall in no case be construed as waiving any provisions of this Ordinance.

### **SECTION 15.03. PUBLIC HEARING AND NOTICE REQUIREMENTS**

Whenever a public hearing is held as required or permitted by this Ordinance, notice of the public hearing shall be given as follows:

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Village.
- B. Except as provided in subsection 4 of this Section, notice of public hearing shall also be mailed or be delivered to the following persons, at least 15 days prior to the date of the public hearing:
  - 1. The applicant;
  - 2. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request; and
  - 3. The occupants of all structures within 300 feet of the property that is the subject of the application or request.
  - 4. If the above described 300 feet radius extends outside of the Village's boundaries, then notice must be provided outside of the Village boundaries, within the 300-foot radius, to all persons in the above stated categories.
- C. The notice of public hearing shall include the following information:
  - 1. A description of the nature of the application or request.
  - 2. An identification of the property that is the subject of the application or request. Except as provided in subsection 4 below, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
  - 3. State when and where the application or request will be considered.
  - 4. Identify when and where written comments will be received concerning the application or request.

5. In the case of an amendment to this Ordinance or to the Zoning Map the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.

When a proposed rezoning involves 11 or more adjacent properties, or when the public hearing does not pertain to a specific property, the mailing or delivery requirements of Subsection B are not required, and the listing of individual property addresses under Subsection C(2) is not required.

## SECTION 15.04. ZONING AMENDMENTS

- A. Amendments and supplements to this Ordinance may be initiated by the Village Council or the Planning Commission upon its own motion, or it may be proposed for consideration by the owner or owners of real estate within the Village. All amendments to this Ordinance, both with reference to the text thereof or the Zoning Map, shall be made in the same manner as provided in the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.) for the enactment of this Ordinance.
- B. Application. Written applications for an amendment to this Ordinance, including the Zoning Map, shall be submitted to the Zoning Administrator at least 30 days prior to the first consideration by the Planning Commission. An application for a zoning amendment shall consist of:
  1. The name, address, and interest of the person making the request and the name, address, and interest of all persons having a legal or equitable interest in any land that is requested to be rezoned.
  2. A written statement from the property owner indicating his or her permission to submit such application, if applicable.
  3. The nature and effect of the proposed amendment.
  4. Payment of a fee, as established by the Village Council.
  5. The changed or changing conditions in the area or in the Village that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
  6. The alleged error in the ordinance, if any, that would be corrected by the proposed amendment, along with a detailed explanation of such alleged error and explanation why the proposed amendment will correct it.
  7. All other circumstances, factors, and reasons that the petitioner offers in support of the proposed amendment.
  8. If the proposed amendment would require a change in the Zoning Map, the following shall also be required:
    - a. A fully dimensioned map clearly showing the property to be considered for the zoning change, including all properties within 300 feet of the subject property;
    - b. The current zoning of the property to be considered for a zoning change and of all abutting lands;
    - c. All public and private rights-of-way and easements bounding and intersecting the land to be rezoned.

- d. A legal description of the property to be considered for the zoning change.
  9. Following receipt of all required information, the Planning Commission shall hold a public hearing on the proposed amendment. Notice for the public hearing shall be provided as outlined in Section 15.03.
  10. After the public hearing, the Planning Commission shall recommend either approval or denial of the proposed amendment to the Village Council.
  11. Upon receipt of the recommendation from the Planning Commission, the Village Council shall either approve or deny the requested amendment in accordance with the procedures adopted by the Council.
- C. Map Amendment (Rezoning). In making its recommendation on a proposed amendment of the Zoning Map, the Planning Commission shall consider the following factors:
1. If the proposed zoning amendment is consistent with the Village's adopted Master Plan;
  2. If the proposed zoning amendment is consistent with recent development trends in the area;
  3. If the zoning amendment is compatible with existing and future land uses in the vicinity of the subject site or throughout the zoning district(s) affected by the proposed amendment;
  4. If existing or planned public infrastructure, including streets, sanitary sewers, storm water, water mains or wells, sidewalks, and street lighting are capable of accommodating potential changes in land use resulting from the proposed amendment;
  5. If the proposed amendment is consistent with the intent and purpose of this Ordinance and whether the proposed amendment would protect the health, safety, and welfare of the Village;
- D. Text Amendment. In making its recommendation on a proposed amendment of the Zoning Ordinance text, the Planning Commission shall consider the following factors::
1. If the proposed text amendment would clarify the intent of the Ordinance or correct an error;
  2. If the proposed text amendment would address changes to state legislation, recent case law, or opinions from the Attorney General, or promote compliance with changes in other county, state, or federal regulations;
  3. If the proposed amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items;
  4. If the proposed amendment is consistent with the Village's ability to provide adequate public facilities and services and is consistent with the Village's desire to protect the public health, safety, and welfare of the community;
  5. In the event the amendment will add a use to a district, if the proposed use is fully consistent with the character of the range of uses provided for within the district, and that the amendment will not create incompatible land uses within a zoning district or between adjacent districts.

## SECTION 15.05. CONDITIONAL REZONING

Any interested property owner may voluntarily offer in writing, and the Village may approve, certain uses and/or development of the land as a condition to a rezoning of the land.

### A. Application Procedure.

1. If the applicant wishes to submit an offer of conditions or restrictions related to the site, the proposed use or its impact on the community along with a petition to rezone land, such offer of conditions or restrictions shall be presented in writing. Proposed restrictions shall be stated clearly, as determined by the Zoning Administrator. The offer of conditions or restrictions shall be received with the application to rezone the land, except as provided in subparagraph B(4) hereof.
2. The applicant may request a pre-application meeting, in which the Zoning Administrator and other village officials may identify concerns reasonably related to the rezoning request. The Village shall not require the applicant to offer conditions or restrictions as a prerequisite for rezoning nor shall the presentation of an offer of conditions or restrictions create any obligation on the part of the village to rezone any land.
3. The offer of conditions or restrictions shall be received in writing with the rezoning application, prior to the Planning Commission public hearing on the rezoning request. Provided, if an offer of conditions is proposed at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the village time to consider the offer; and if an offer of conditions is proposed at a Village Council meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration and recommendation.
4. The Planning Commission or Village Council may postpone a request to give residents of the Village of Shelby more time to fully understand the offer of conditions.

### B. Standards for Approval.

1. When reviewing a rezoning request and/or an offer of conditions or restrictions, the Village may consider, but shall not be limited to: future land use recommendations in the master plan; goals and objectives in the master plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.
2. Offers of conditions or restrictions shall not be approved if such conditions or restrictions would have the effect of departing from the standards of the Zoning Ordinance or other regulations or ordinances promulgated by, or applicable in, the Village.
3. When considering an offer of conditions or restrictions, the Village shall determine whether the conditions or restrictions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

### C. Expiration of Agreement, Reversion, and Extensions.

1. In approving the conditions, the Village may establish a time period during which the conditions apply to the land. Except for an extension under subparagraph D(3) hereof, if the conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, per subparagraph C(4) hereof.
2. The Village shall not add to or alter the approved conditions during the time period specified under subparagraph C(1).

3. The time period specified under subparagraph C(1) may be extended upon the application of the property owner and approval of the Village:
  - a. The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and his recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being solicited.
  - b. Upon recommendation of the Planning Commission, the Village Council may extend the time period specified under subparagraph D(1). If the extension is approved and if the conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, per subparagraph D(4).
4. If the conditions are not satisfied or the restrictions are not established within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this paragraph. After a public hearing and after determining that the applicant has failed to satisfy the approved conditions, the Planning Commission shall make a recommendation to the Village Council. The Planning Commission shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such. The Village Council shall then consider the rezoning of the land back to its former zoning classification.

D. Coordination and Performance Bonds.

5. Where proposed conditions or restrictions involve public improvements, the applicant shall submit the following to the Planning Commission prior to final approval of the rezoning and offer of conditions:
  - a. A construction schedule.
  - b. Costs and obligations.
  - c. Responsible parties for obtaining permits.
  - d. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
6. The Village may require a performance guarantee pursuant to Section 15.07 or similar tools as part of the agreement or approval.

- E. Notices and Hearing. Rezoning or zoning reversion of land shall require notice of public hearing in accord with Section 15.03 hereof.

## **SECTION 15.06. APPLICATION FEES AND ESCROW ACCOUNTS**

The Village Council shall periodically establish by resolution a schedule of fees and escrow amounts to be paid by applicants for any permit, certificate, approval, application, or appeals required by this Ordinance. All fees shall be paid to the Zoning Administrator, who shall promptly remit the same to the Village Treasurer. The fee and escrow schedule shall be posted on public display in the Village Hall and may be changed only by resolution of the Village Council. No permit, certificate, approval, application or appeal shall be issued or considered unless and until the fees and escrow amounts therefor have been paid in full, and payment of the required fees and escrow shall be a condition precedent to the validity of any permit, certificate, or approval.

## SECTION 15.07. PERFORMANCE GUARANTEES

- A. As a condition of approval of a site plan, special land use, variance, planned development, or any other approval granted pursuant to this Ordinance, the Planning Commission, Village Council, or Zoning Board Appeals may require a performance guarantee to ensure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include but shall not be limited to roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
1. Such performance guarantee shall be in a principal amount reasonably estimated to enable the Village to recover any costs it incurs to complete such work or otherwise assure compliance with the requirements, specifications, and conditions of such approval should the applicant fail to do so within the time specified within the approval. The zoning administrator, the village engineer, the village's legal counsel and the applicant shall work together to establish the amount needed to reasonably cover the costs of non-performance. The terms of the performance guarantee may, but shall not be required to, provide for partial releases of the amount of the guarantee as the requirements, specifications and conditions imposed with the approval are fulfilled. If the applicant disagrees with village staff as to the amount needed to reasonably cover the costs of non-performance, the village engineer shall provide an engineer's cost estimate shall be used to determine the amount required.
  2. The performance guarantee shall be provided before any permits are issued pursuant to this Ordinance or the construction code and the failure of any such performance guarantee shall be a basis for revoking any permit granted under this Ordinance or the construction code.
- B. Performance guarantees shall be processed in the following manner.
1. Prior to the filing of a final site plan, a pre-application conference may be held to provide an opportunity to the Village staff to inform the applicant of the Village's requirements regarding performance guarantees.
  2. Upon filing of the final site plan, the applicant shall prepare an itemized cost estimate of the required improvements, which shall then be reviewed by the Zoning Administrator. The amount of the performance guarantee shall be 100% of the cost of installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
  3. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village.
  4. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a zoning permit, special land use permit, or other permit as appropriate for the subject development or activity, provided that all other requirements of this Ordinance have been met.
  5. The Zoning Administrator, upon written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the



performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.

6. When all of the required improvements have been completed, the obligor shall send written notice to the Village Clerk of completion of said improvements.
  - a. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall recommend to the Council approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejections. If partial approval is recommended, the cost of the improvement rejected shall be set forth.
  - b. The Council shall either approve, partially approve or reject the improvements. The Zoning Administrator shall notify the obligor in writing of the action of the Council within 30 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
7. A record of authorized performance guarantees shall be maintained by the Zoning Administrator or their designee.

## **SECTION 15.08. PROPERTY SURVEYS**

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the Village with a current survey by a registered surveyor for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the Village to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All surveying costs shall be paid for by the applicant or property owner.

## **SECTION 15.09. REPRESENTATIONS AND PROMISES OF APPLICANTS AND PROPERTY OWNERS**

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a rezoning, special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Village approval document) if the Village deems such promise, representation, or condition to have been a consideration by the official or Village body which granted the zoning approval and the Village also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

## **SECTION 15.10. REVOCATION OR TERMINATION OF ZONING APPROVALS**

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or Zoning Permit, then the Village body, board, or official that granted the zoning approval or permit may terminate the zoning approval or Zoning Permit. Where a special land use, PUD, variance, or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.

## **SECTION 15.11. PENALTIES**

- A. Any building or structure which is erected, moved, placed, reconstructed, demolished, extended, enlarged, altered, maintained, or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance, per se.
- B. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction.
- C. The civil fine for a municipal civil infraction shall be as noted in the Village of Shelby Municipal Civil Infraction Ordinance.
- D. For purposes of this Section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which the person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.
- E. The Village Council and/or their duly authorized representative(s) is hereby charged with the duty of enforcing the Ordinance and the Village Council is hereby empowered in the name of the Village of Shelby to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Oceana County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the non-compliance or violation. And it is further provided that any person aggrieved or adversely affected by this non-compliance or violation may institute suit and/or join the Village Council in the suit to abate the same.
- F. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

## **SECTION 15.12. ADMINISTRATIVE LIABILITY**

No officer, agent, employee, Building Official, Zoning Administrator, or member of the Planning Commission, Village Council, or Zoning Board of Appeals shall be personally liable for any damage that may accrue to any person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

### **SECTION 15.13. STOP WORK ORDERS**

- A. Notice to Owner. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. Unlawful Continuance. Any person who continues to work on, in or about the structure, land or building or use it after having been served with a stop work order, except such work as that person is directed to perform to remove a violation, shall be in violation of this Ordinance.

### **SECTION 15.14. SEVERABILITY, REPEALER, AND EFFECTIVE DATE**

- A. This Ordinance and each section, subsection, paragraph, subparagraph, or any provision thereof, shall be deemed to be severable. If any section, subsection, paragraph, subparagraph, or any other provision of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional for any reason, it is hereby provided that the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.
- B. The former Zoning Ordinance of this Village ("The Shelby Community Zoning Ordinance" Ordinance #\_\_\_\_), effective March \_\_\_\_\_, 2006, and all amendments thereto prior to January 1, 2022, are hereby repealed; provided, however, that the same shall remain in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of any penalty or liability thereunder. All other ordinances and parts of ordinances, or amendments thereto, of the Village, in conflict with the provisions of this Ordinance, except those ordinances and parts of ordinances or amendments thereto which are more restrictive than this Ordinance, are hereby repealed to the extent of any such conflict.
- C. This Ordinance was adopted at a regular meeting of the Shelby Village Council on \_\_\_\_\_, 2022 and is ordered to take effect upon the expiration of eight (8) days following publication of adoption in \_\_\_\_\_, a newspaper having general circulation in the Village, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

## CHAPTER 10. PLANNED UNIT DEVELOPMENTS

### SECTION 10.01. PURPOSE AND INTENT

The regulations herein contained are intended to offer an alternative to conventional development and traditional zoning standards and to permit flexibility in the development or redevelopment of areas through the authorization of Planned Unit Development (PUD) districts. The standards in this Chapter are intended to promote and encourage development on parcels of land that are suitable in size, location, and character for the uses proposed, and are further intended to ensure compatibility with adjacent land uses, the Village Master Plan, and where applicable, existing natural features.

The use, area, height, bulk, and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. However, in certain developments, these requirements may sometimes result in situations less in the interest of public health, safety, and welfare than if greater flexibility were permitted. The purpose of a PUD is to permit the development of planned areas for various compatible uses allowed by the zoning ordinance and for other uses not so provided. This district is also intended to enhance flexibility in building placement standards in order to achieve a recognizable benefit for the public interest. It is intended that this district shall afford each type of use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to this district.

### SECTION 10.02. OBJECTIVES AND QUALIFYING CONDITIONS

- A. The degree to which the following objectives are satisfied shall be considered by the Planning Commission and Village Council in its review of a PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning of planned developments. The objectives of PUDs are:
1. To encourage the provision and protection of open spaces, cultural/historic resources, the development of recreational amenities, and, where necessary, other support facilities within a reasonable distance of all dwelling units;
  2. To encourage developers to use a more creative and imaginative approach in the development of property in the Village;
  3. To allow for market-driven development or redevelopment in places most conducive to accommodating additional activity;
  4. To facilitate economic development through the creation of a mix of uses and/or building types and forms;
  5. To facilitate the development of affordable and/or attainable housing options for people of all ages, abilities, and incomes;
  6. To create walkable developments with pedestrian-oriented buildings and open space that connects to nearby destinations or neighborhoods;
  7. To provide for the adaptive re-use of significant or historic buildings;

8. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the Village.
9. To promote flexibility in design and to permit planned diversification in the location of structures;
10. To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities;
11. To minimize adverse traffic impacts and to accommodate safe and efficient pedestrian access and circulation;
12. To provide for the redevelopment of sites and/or buildings that are under-developed or have fallen into disrepair;
13. To combine and coordinate architectural styles, building forms, and building relationships; and

B. Qualifying Conditions.

1. Ownership. The tract of land for which a PUD application is received must be either in one (1) ownership or with the written approval of the owners of all affected properties.
2. Conditions. To be considered as a PUD, the proposed development must fulfill at least one (1) of the following conditions:
  - a. The PUD contains two (2) or more separate and distinct uses, for example, residential dwellings and office or commercial uses;
  - b. The PUD site exhibits significant natural features encompassing at least twenty-five (25) percent of the land area of the PUD which will be preserved as a result of the PUD;
  - c. The PUD is designed to preserve, in perpetuity, at least sixty (60) percent of the total area of the site as open space;
  - d. The PUD constitutes the significant redevelopment of an underutilized or vacant property where conventional development may not be feasible.
3. Master Plan. The applicant shall demonstrate that the proposed PUD is consistent with the adopted Village of Shelby Master Plan.

### SECTION 10.03. PERMITTED USES AND RESIDENTIAL DENSITY

A. The following uses may be permitted in a PUD:

1. Uses permitted by right or by special land use in the underlying zoning district;
2. Any use that is determined to be consistent with the Village Master Plan;
3. A combination of residential, commercial, and/or public uses which are compatible with existing and adjacent land uses and the Village Master Plan.

B. Only those uses approved for the PUD shall thereafter be permitted within the PUD.

C. For PUDs located in non-residential districts, the maximum number of dwelling units permitted in a PUD shall be determined by the Planning Commission in consideration of the Master Plan, existing and future surrounding land uses, the capacity of public utilities and services, and other applicable factors.

- D. For PUDs located in residential zoning districts, the permitted density shall not be greater than that permitted by the zoning district in which the proposed uses are permitted. If the PUD lies in more than one (1) zoning district, then the number of dwelling units shall be calculated on a proportionate basis.
- E. The total amount of land to be used for the calculation of the permitted density in a PUD in subsection 4 above shall be determined by using the net developable area, which shall be determined by taking the total site area and subtracting lands used or dedicated for existing public easements and existing public or private street rights-of-way.
- F. Land not proposed for development and not used or dedicated for existing public or private street rights-of-way or other infrastructure, but used for the calculation of overall density, shall be considered open space and subject to the requirements of Section 10.06.

#### **SECTION 10.04. NON-RESIDENTIAL OR MIXED USE PUDS**

- A. All uses shall be integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.
- B. A mix of residential and non-residential uses may be permitted only if they will not materially alter the character of the neighborhood and/or the PUD.
- C. When a PUD contains a mix of residential and non-residential uses, buildings designed for non-residential uses shall be constructed according to the following requirements:
  - 1. If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five (75) percent of these units must be constructed prior to construction of any non-residential use.
  - 2. If the PUD contains more than twenty (20) dwelling units, fifty (50) percent of these units shall be constructed prior to the construction of any non-residential use.

#### **SECTION 10.05. DESIGN STANDARDS**

- A. Deviations from Minimum Requirements. In approving a PUD, the Village may permit deviations from the lot area and width requirements, parking requirements, required buffers, building setback requirements, height limitations, and other requirements of the zoning ordinance provided that such deviations are consistent with all other requirements of this Ordinance, the Master Plan, and the following standards:
- B. The applicant shall identify, in writing, all proposed deviations from the underlying zoning district. Deviations may be approved by the Village Council after the Planning Commission recommendation. These adjustments may be permitted if they will result in a higher quality of development, better integration of the proposed use(s) within the vicinity, and the fulfillment of the objectives and qualifying conditions in Section 10.02.
- C. Deviations from the minimum requirements shall also satisfy at least one (1) of the following criteria:
  - 1. The proposed deviations shall preserve the best natural features of the site;
  - 2. The proposed deviations shall create, maintain, or improve habitat for wildlife;
  - 3. The proposed deviations shall create, maintain, or improve open space for the residents;
  - 4. The proposed deviations shall enhance the views into the site as well as the view from dwellings to be built on-site;

5. The proposed deviations shall constitute an adaptive re-use or redevelopment of buildings and/or property; and/or
6. The proposed deviations shall be necessary for the development or redevelopment of property that would not be feasible without the deviations.

D. Other Requirements.

1. All electric, cable, internet, and telephone transmission wires within the PUD shall be placed underground.
2. Signs are permitted in accordance with the zoning district in which the proposed uses are permitted.
3. Conditions. The Village may impose conditions with the approval of a PUD that are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this chapter. Such conditions shall be considered an integral part of the PUD approval and shall be enforceable by the Zoning Administrator.

## SECTION 10.06. OPEN SPACE

If open space is provided or required in the PUD, it shall meet the following considerations and requirements:

- A. Open space may be established to separate uses within the PUD.
- B. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, such that all properties within the entire PUD may reasonably utilize the available open space.
- C. Evidence shall be given that satisfactory arrangements will be made for the maintenance of open space to relieve the Village of the future maintenance thereof.
- D. Open space may be provided where significant natural features may be preserved and/or be used for passive or active recreation.
- E. All land set aside as open space shall be deed restricted to ensure that the open space remains undeveloped in perpetuity.
- F. All open space shall be in joint ownership of the property owners within the PUD or some other entity approved by the Village. Such joint ownership or entity shall take responsibility for the maintenance of the open space.
- G. The maintenance requirements of dedicated open space may include regular clearing and mowing or other active maintenance. Maintenance shall also include the removal of any accumulation of trash or waste material within the dedicated open space, cleanup of storm damage, removal of diseased plant materials, and similar improvements.
- H. To the extent possible, dedicated open space areas shall be continuous and contiguous throughout the PUD. Open space areas shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the PUD.

## SECTION 10.07. GENERAL APPLICATION PROCEDURES

The following steps, which are outlined in Sections 10.08-10.11, shall govern all applications for PUD approval:

- A. Preliminary Planning Commission Review (Optional). A preliminary plan may be submitted to the Planning Commission for initial review. The applicant may attend a pre-application review of the proposed PUD with the Planning Commission.
- B. PUD Preliminary Plan and PUD Rezoning.
  1. The Planning Commission shall review the PUD Preliminary Plan and PUD rezoning application, hold a public hearing (if desired), and make a written recommendation to the Village Council.
  2. The Village Council shall review the PUD Preliminary Plan and PUD rezoning application, and the written recommendation and findings from the Planning Commission, hold a public hearing, and make a final decision.
- C. PUD Final Plan Review. The Planning Commission and other applicable Village personnel shall review the PUD final site plan in accordance with Section 10.11 of this chapter.
  1. An application for PUD shall be accompanied by a statement with regard to compliance with the standards required for approval in Section 10.10, and other standards imposed by this Ordinance affecting the PUD under consideration.
  2. Either concurrently with the PUD preliminary plan application, or upon approval by the Village Council (with or without conditions), the applicant may apply for preliminary plat approval, condominium approval, and private road approval, as applicable.
  3. Approval of a PUD pursuant to this chapter shall constitute an amendment to the Village of Shelby Zoning Ordinance and Zoning Map.

## SECTION 10.08. PRELIMINARY PLANNING COMMISSION REVIEW (OPTIONAL)

- A. Conceptual plans of the proposed PUD may, at the applicant's option, be submitted for review to the Planning Commission prior to submission of an application for a PUD. The purpose of the meeting is to allow discussion between an applicant and the Planning Commission, and to inform the applicant of the acceptability of proposed plans prior to incurring extensive engineering and other costs which will be necessary for PUD review.
- B. As part of the pre-application review, the applicant shall submit a copy of a conceptual plan for the proposed PUD that shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, the proposed number and arrangement of lots or units with building envelopes, proposed open spaces, location of proposed buildings, and proposed land use(s) for the entire site.
- C. The Planning Commission shall advise the applicant regarding whether the proposed conceptual plan complies with the purpose and intent of this chapter and if it qualifies for PUD rezoning pursuant to the objectives and qualifying conditions of Section 10.02.
- D. Formal action shall not be taken at a preliminary Planning Commission review. Statements made at the pre-application conference or review by the Planning Commission shall not be considered binding commitments or any sort of approval of the PUD.



## SECTION 10.09. PROCEDURES FOR PUD PRELIMINARY PLAN AND PUD REZONING

- A. Required Information. Following the optional preliminary review (if conducted), the applicant shall submit a completed application form for PUD rezoning, the required application fee, and ten (10) copies and a PDF of the PUD preliminary plan to the Planning Commission at least thirty (30) days prior the next Planning Commission meeting.
- B. The PUD preliminary plan shall be professionally prepared by a licensed engineer, surveyor, architect, and/or landscape architect and shall be drawn to a scale of not less than one (1) inch = 100 feet. This PUD preliminary plan shall, at a minimum, contain the following information, unless specific items are determined to be not pertinent to the application by the Planning Commission or Zoning Administrator:
- C. General Information.
1. Name and firm address of the professional individual responsible for preparing the site plan and his/her professional seal.
  2. Name and address of the property owner or petitioner.
  3. Scale, north arrow, and date.
  4. Acreage (gross and net).
  5. Zoning of adjacent properties.
  6. Legal property description.
  7. Existing site conditions:
    - a. Boundary survey lines and setbacks.
    - b. Location sketch showing site, adjacent streets, and properties within 200 feet or as directed by the Village.
    - c. Location, width, and purpose of all existing easements and lease areas, including cross-access.
    - d. Abutting street right(s)-of-way and width.
    - e. Topography with contour intervals of no more than two (2) feet.
    - f. Natural features such as wooded areas, surface water feature, floodplains or floodways, wetlands, slopes exceeding 15%, lakes, rivers, creeks, county drains, and other significant site features, including the area of such features.
    - g. Existing buildings, structures, paved surfaces and areas, installed landscaping, and other significant physical infrastructure.
    - h. Size and location of existing utilities and status, where applicable.
  8. Proposed Development:
    - a. Layout of proposed buildings, structures, driveways, parking lots, streets, landscaped areas, and other physical infrastructure, as applicable, including the area of these improvements.
    - b. Recreation areas, common use areas, dedicated open space, and areas to be conveyed for public use.

- c. Layout of sidewalks and/or pathways, both internal to the development and along the main road frontage.
- d. Layout and typical dimensions of building envelopes, proposed parcels, and lots.
- e. Parking, stacking, and loading calculations, if applicable.
- f. Phasing plan, if applicable.
- g. Conceptual plan for the provision of public water and public sanitary sewer services.
- h. Conceptual grading plan.
- i. Conceptual stormwater plan.
- j. Conceptual building types, including building elevations and footprints.

9. Additional Information:

- a. A narrative, which shall describe the proposed PUD, the proposed timeframe of development, the zoning district(s) in which it will be located, the overall residential density of the project, and documentation indicating how the objectives and qualifying conditions in Section 10.02 and the standards of Section 10.10 are met.
- b. A table or narrative detailing all requested deviations identified in the PUD preliminary plan compared to the requirements of the zoning district in which the proposed PUD is located. This table or narrative shall clearly identify the requirement in comparison to the requested deviation.
- c. The Planning Commission may require additional information from the applicant to better assist in the determination of PUD qualification such as, but not limited to, market studies, fiscal impact analysis, traffic impact studies, and environmental impact assessments.

D. Planning Commission Review and Optional Public Hearing.

1. The Planning Commission shall review the PUD preliminary Plan at a regular or special meeting and may hold a public hearing, though it is not required. Notice of the public hearing (if held) shall be provided in accordance with Section 15.03 of this Ordinance.
2. The Planning Commission shall review the PUD preliminary plan in consideration of public comments, technical reviews from village staff and consultants (if requested), and other applicable standards and requirements. Within a reasonable timeframe, the Planning Commission shall recommend approval, approval with conditions, or denial of the PUD preliminary plan and PUD rezoning to the Village Council. The Planning Commission's recommendation shall be documented with findings to justify its recommendation.
3. In order to recommend approval of the PUD preliminary plan and PUD rezoning, the Planning Commission shall find that the standards of Section 10.10 are satisfied.

E. Village Council Review and Required Public Hearing.

4. Following receipt of a recommendation from the Planning Commission on the PUD preliminary plan and PUD rezoning, a public hearing of the Village Council shall be scheduled in accordance with the Michigan Zoning Enabling Act, as amended.
5. After the public hearing, the Village Council shall review the application in consideration of the Planning Commission's written recommendation, public hearing comments,

technical reviews from village staff and consultants, and other applicable standards and requirements. Within a reasonable time, the Village Council shall approve, approve with conditions, or deny the PUD preliminary plan and PUD rezoning. The Village Council's decision shall be documented with written findings to justify its decision.

6. In accordance with the Michigan Zoning Enabling Act, as amended, the Village Council may place reasonable conditions on the approval of a PUD preliminary plan, including a performance guarantee pursuant to Section 15.07 of this Ordinance. Conditions attached to the approval shall be incorporated into the ordinance adopting the PUD preliminary plan and PUD rezoning.
7. Approval of the PUD preliminary plan and PUD rezoning by the Village Council shall be incorporated into an ordinance amending the zoning ordinance and map. Such rezoning and PUD preliminary plan approval shall become effective after notification and publication as required by the Michigan Zoning Enabling Act, as amended.

## **SECTION 10.10. PUD PRELIMINARY PLAN AND REZONING STANDARDS FOR APPROVAL**

In order to approve a PUD preliminary plan and PUD rezoning, the Planning Commission and Village Council shall find that all of the following standards are met:

- A. The proposed PUD complies with the purpose, objectives, and qualifying conditions of Sections 10.01 and 10.02.
- B. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with, and further implement the policies of, the adopted Village of Shelby Master Plan.
- C. The proposed PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.
- D. The proposed PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
- E. The proposed PUD shall not place demands on public services and facilities more than current or anticipated future capacity.
- F. The proposed PUD shall satisfy all applicable local, state, and federal laws, rules and, regulations.

## **SECTION 10.11. PUD FINAL SITE PLAN**

- A. Within one year after PUD preliminary plan and PUD rezoning approval by the Village Council, a minimum of four (4) copies and a PDF of the PUD final site plan for the entire PUD (or at least one phase of the PUD) shall be submitted by the applicant in accordance with Chapter 12 of this Ordinance.
- B. All PUD final site plans subsequently submitted shall conform to the approved PUD preliminary plan subject to minor revisions and all conditions attached to its approval, the ordinance adopting the PUD preliminary plan and PUD rezoning, and the requirements of this chapter.

- C. If the PUD final site plan substantially conforms to the approved PUD preliminary plan subject to minor revisions and all conditions attached to its approval, the PUD adoption ordinance, and the requirements of this Chapter, then the Planning Commission shall approve the PUD final site plan.
- D. Unless otherwise required by subsection F below, PUD final site plans shall be reviewed by the Planning Commission and any other applicable village personnel.
- E. For land uses within the PUD subject to additional special land use requirements, such uses shall comply with all such required conditions, unless deviations were approved pursuant to this chapter.
- F. For land uses within the PUD that require special land use approval, or for PUDs that contain private roads, subdivisions, and/or condominium units, such uses shall be reviewed and approved in accordance with all other applicable sections of the zoning ordinance and other requirements of the Village of Shelby. These review processes may occur concurrently with the process for PUD preliminary plan review and PUD rezoning.

## SECTION 10.12. APPROVED PUDS

- A. Phased Projects. Where a project is proposed for construction in phases, the project shall be designed so that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure the protection of natural resources and the health, safety, and welfare of the users of the PUD and residents of the community. Each phase of a PUD shall require the submittal of a final site plan as outlined in Section 10.11.
- B. Amendments to an Approved PUD. An amendment to an approved PUD shall be reviewed and approved by the Planning Commission and Village Council pursuant to Section 10.09 (B) & (C), except that the Zoning Administrator may review and approve minor amendments to the PUD, or refer minor amendments to the Planning Commission for a determination with or without a public hearing. Minor amendments include, but are not limited to, the following:
  - 1. Reduction of the size of any building, building envelope, or sign.
  - 2. Movement of buildings or signs by no more than 10 feet.
  - 3. Changes requested by the Village, Township, or County for safety reasons.
  - 4. Changes that will preserve natural features of the land without changing the basic site layout.
  - 5. Changes in the boundary lines of lots or condominium units that do not change the overall density of the development, do not reduce the width of the lot by more than 10 percent, or do not change the average lot or unit width throughout the development.
  - 6. Additions or modifications of the landscape plan or landscape materials, or replacement of plantings approved in the landscaping plan.
  - 7. Alterations to the internal parking layout of a parking lot, provided that the total number of spaces or means of ingress and egress do not change.
  - 8. Other non-substantive changes proposed to be made to the configuration, design, layout, or topography of the site plan which are deemed by the Village to be not material or significant in relation to the entire site and which the Village determines would not have

a significant adverse effect on the development on adjacent or nearby lands or the public health, safety, and welfare.

C. Expiration

1. A PUD (or at least the first phase of a PUD) shall be under meaningful construction of proposed improvements consistent with the approved PUD final site plan within one year after the date of approval of the PUD final site plan, which shall proceed diligently to completion. For the purposes of this subsection, "meaningful construction" means substantial completion of improvements such as utilities, roads, buildings, and similar improvements.
2. Upon expiration of the time period for submission of either (a) the PUD preliminary plan and rezoning, or (b) the PUD final site plan, such approvals shall automatically become null and void and all rights of development based on the plan shall terminate.
3. The Village Council may approve extensions of up to two years at a time, if requested in writing by the applicant prior to the expiration date of the original PUD preliminary plan approval or PUD final site plan approval. In requesting an extension, the applicant shall provide the reason(s) it is requesting the proposed extension.
4. Upon expiration of a PUD preliminary plan or PUD final site plan, the Planning Commission may conduct a public hearing and make a recommendation to rezone the property to its original zoning district or another district as deemed appropriate.
5. Appeals and Variances. The Zoning Board of Appeals shall not have jurisdiction to consider variances from the requirements of this chapter, nor may decisions related to a PUD be appealed to the Zoning Board of Appeals.
6. Performance Guarantees. The Planning Commission and/or Village Council may require the applicant for PUD rezoning to furnish a performance guarantee pursuant to Section 15.07 of this Ordinance.