

Village of Shelby

Oceana County, Michigan

ZONING ORDINANCE

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CHAPTER 1. TITLE, PURPOSE, AND EFFECT

SECTION 1.01. SHORT TITLE

This Ordinance is hereby known as the "Village of Shelby Zoning Ordinance."

SECTION 1.02. ENACTING CLAUSE

The Village of Shelby, Oceana County, Michigan, ordains:

SECTION 1.03. PURPOSE

The purpose of this Ordinance is to promote and safeguard the public health, safety, and general welfare of the people of the Village of Shelby. The provisions are intended to, among other things:

- A. Encourage the use of lands, waters, air and other natural resources in accordance with their character and most suitable use;
- B. Limit the improper use of land, air and resources;
- C. Provide reasonable terms under which the lawful use of nonconforming buildings, structures, and land may be continued;
- D. Reduce hazards to life and property;
- E. Provide for orderly development;
- F. Avoid overcrowding of the population;
- G. Provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered;
- H. Lessen congestion on the public roads and streets;
- I. Protect and conserve natural recreational areas, agricultural, residential, and other areas naturally suited to particular uses;
- J. Facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public requirements;
- K. Conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties.

SECTION 1.04. THE EFFECT OF ZONING

For the purpose of this Ordinance, except as hereafter specifically provided, no lot, land or premises shall be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations for the Zoning District in which it is located; these limitations being the minimum legislation necessary to achieve the purposes of this Ordinance.

In case any land, building, structure, or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this Ordinance, that use, erection, alteration, or occupation of land, building or structure shall be unlawful and shall be declared a nuisance and the use of land may

be required to cease and buildings or structures may be required to be vacated, torn down, or abated by any legal means and any land, building, or structure shall not be used or occupied until brought into conformance.

If construction on a building or structure is lawfully begun prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any building, provided that actual construction is being diligently carried on, and further provided that the building shall be entirely completed for its planned or designed use within two (2) years from the effective date of this Ordinance.

SECTION 1.05. LEGAL BASIS

This Ordinance is enacted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

CHAPTER 2. DEFINITIONS

SECTION 2.01. RULES APPLYING TO TEXT

- A. If the meaning of this Ordinance is unclear in a particular circumstance, then the body or person charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of the Ordinance or law.
- B. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- C. All words and phrases shall be construed and understood according to the common preferred use of the language; but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.
- D. The particular shall control the general. For terms used in this Ordinance the use of a general term shall not be taken to be the same as the use of any other specific term.
- E. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- F. A "building" or "structure" includes any part thereof.
- G. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- H. The phrase "Shelby" or "Village" refers to the Village of Shelby.
- I. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. "Or," indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
 - 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
 - 4. A masculine term shall include the feminine version of the term, and vice versa.
- J. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- K. With the exception of this Chapter, the headings that title a Chapter, Section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.

- L. The listed terms and words are defined in this Chapter for the purpose of their use in this Ordinance. These definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

SECTION 2.02 “A”

ACCESS – A way or means of approach to provide vehicular or pedestrian physical entrance to a property or place.

ACCESSORY or ACCESSORY USE – A use of a lot which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces, or loading) located on the same zoning lot as the principal use to which it is related. When “accessory” is used in this text, it shall have the same meaning as accessory use.

ACCESSORY BUILDING – A building that is located on the same lot as and supplementary to the main building, or part of the main building, occupied by or devoted exclusively to an accessory use, including but not limited to, the storage of goods and materials owned by the occupant of the principal building, private garages, carports, and sheds. When an accessory building is attached to the main building in a substantial manner (such as a wall or roof), the accessory building shall be considered part of the main building for setback purposes.

ACCESSORY DWELLING UNIT (ADU) – A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is attached to an existing single-family dwelling. ADUs are also known as “mother-in-law apartments.”

ACCESSORY STRUCTURE – A structure that is clearly subordinate or incidental to a principal structure or principal use. Accessory structures include but are not limited to, greenhouses, decks, gazebos, school bus stop shelters, and similar structures.

ART STUDIO/CRAFT SHOP – An establishment for artists or artisans skilled in photography or art that may involve the retail, lease, practice, service, and/or display of that skill, along with any associated equipment or supplies.

ALLEY – Any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATIONS – Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams, or girders.

ASSEMBLY, PROCESSING, FABRICATION, OR MANUFACTURING FACILITY – An enclosed establishment engaged in the mechanical or chemical transformation of materials or substances into new products, combining of parts into finished products, or the sub-assembly of components for subsequent finishing on or off-site, usually in a continuous and regular action or succession of actions, including the assembling of component parts, the creation of products, blending of materials, and the packaging, shipping, and receiving of manufactured components.

SECTION 2.03 “B”

BASEMENT – That portion of a building that is partly or wholly below grade such that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A “basement” shall not be counted as a story.

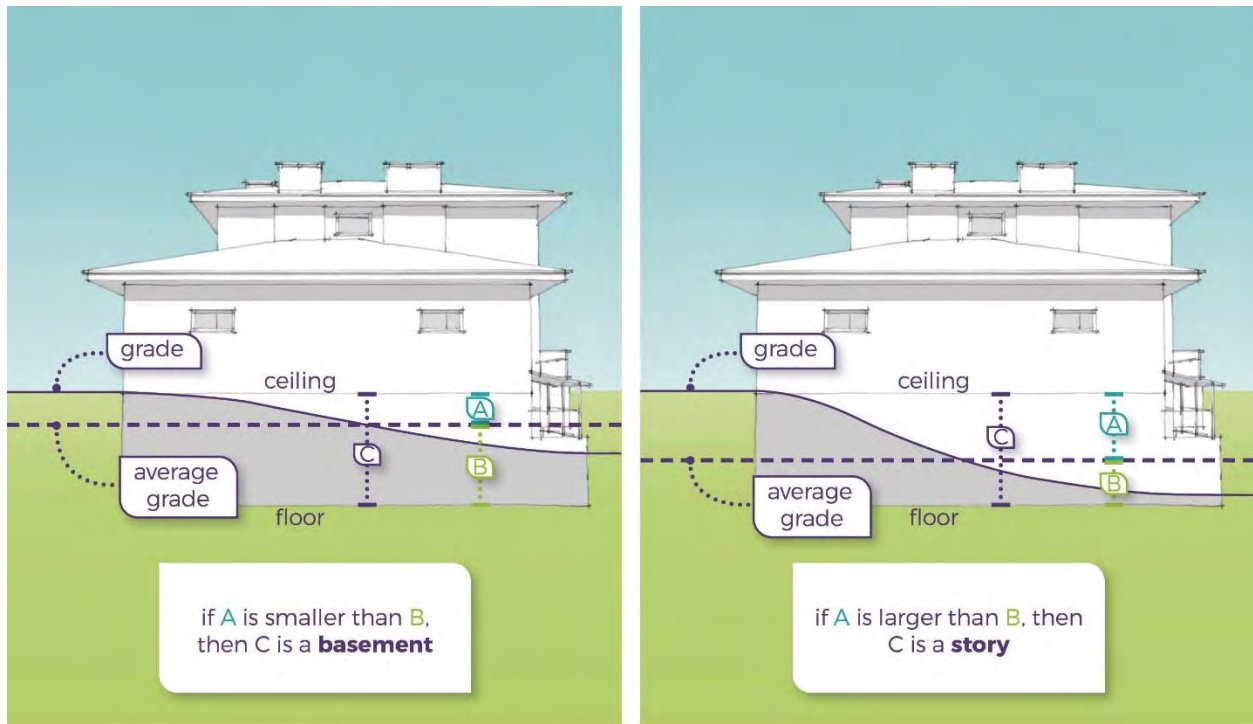


Figure 2.1. BASEMENT

BED AND BREAKFAST ESTABLISHMENT – A use that is subordinate to the principal use of the dwelling unit as a single-family residence that offers sleeping accommodations to transient tenants in 6 or fewer rooms for rent at the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants and serves breakfast at no extra cost to its transient tenants.

BERM – A mound of earth graded, shaped, and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

BLOCK – The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

BUFFER ZONE – A strip of land of definite width and location required between certain Zoning Districts reserved for the planting of shrubs, trees, or grasses; berms; walls; or fencing to serve as a visual and noise barrier or an obscuring screen necessary to carry out the requirements of this Ordinance.

BUILDING – An enclosed structure having a roof supported by columns, walls, arches, or other devices, and used or intended to be used for the housing, sheltering, or enclosure of persons, animals, chattels, or property of any kind. The term "building" also includes, but is not limited to, mobile homes, manufactured homes, storage sheds, garages, greenhouses, and pole barns.

BUILDING CODE – The code or codes governing the erection and maintenance of buildings as currently adopted by the Village of Shelby/State of Michigan.

BUILDING ENVELOPE – The three-dimensional space within which a structure may be built on a lot and that is defined by the maximum height regulations and minimum yard setbacks.

BUILDING FOOTPRINT – The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios, decks, and steps, and of awnings and nonpermanent canopies.

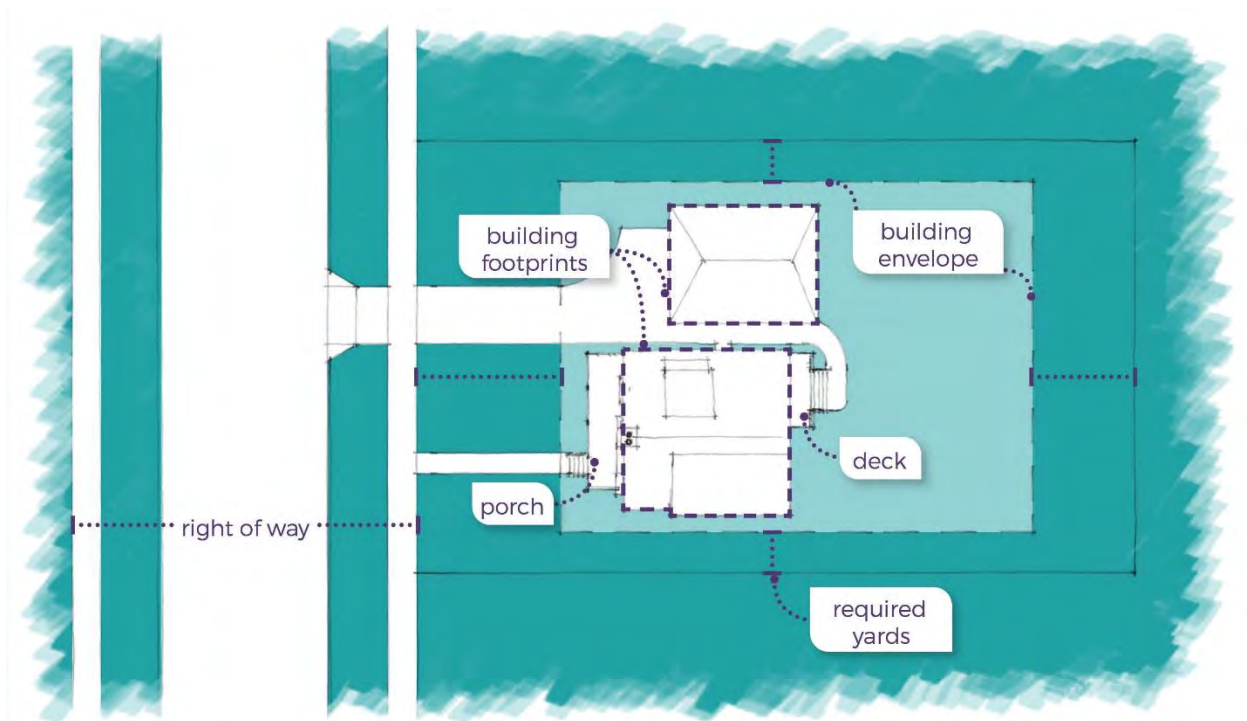


Figure 2.2. BUILDING ENVELOPE AND FOOTPRINT

BUILDING LINE – The outermost wall of the building foundation.

BULK OIL, GASOLINE, LIQUID PROPANE GAS, AND COMPRESSED NATURAL GAS DISTRIBUTION AND STORAGE FACILITY. The storage of gasoline, crude oil, liquid propane, natural gas, and similar facilities that meet state and federal requirements for the storage and containment of such fuels.

BUILDING OFFICIAL – The party designated by the Village of Shelby to administer the provisions of the adopted Building and Fire Code for the Village.

SECTION 2.04 “C”

CATERING ESTABLISHMENTS – A facility primarily used for the preparation of food and meals on the premises and where such food and meals are delivered to another location for consumption and are not consumed on the premises.

CEMETERY or CREMATORIUM – Grounds and facilities including any one or a combination of more than one of the following: a burial ground for earth interment; a mausoleum for crypt

entombment; a crematory for the cremation of human remains; and a columbarium for the deposit of cremated remains.

CHILD CARE FACILITY or DAY CARE CENTER – A facility other than a private residence, licensed by the Michigan Department of Social Services, in which one or more preschool or school-age children are given care and supervision for periods of less than 24 hours per day, and where a parent or legal guardian is not immediately available to the child. A child care facility includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care facility or day care center does not include any of the following:

- A. A Sunday school, a vacation Bible school or a religious class that is conducted by a religious organization where children are in attendance for not greater than four hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a 12-month period.
- B. A facility operated by a religious organization where children are cared for not greater than four hours while persons responsible for the children are attending religious classes or services.
- C. A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
- D. A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- E. A program that primarily provides therapeutic services to a child.

COMMERCIAL STORAGE WAREHOUSES – A building or group of buildings used primarily for the storage of goods and materials, including self-storage facilities as defined herein.

CONTRACTOR'S OFFICES AND YARDS – A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources, and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly, or staging areas.

CONVALESCENT or NURSING HOME – An institutional facility other than a private home or facility defined in this chapter having as its principal function the provision of care, and supervision of individuals for 24 hours a day and which are licensed under Article 17 of the Public Health Code, Act No. 368 of 1978, as amended.

COTTAGE HOUSING/BUNGALOW COURTS – See definition under “Dwelling or Dwelling Unit.”

SECTION 2.05 “D”

DOMESTICATED ANIMALS — Animals commonly domesticated and kept in homes, including, but not limited to, dogs, cats, birds, fish, rabbits, small rodents, small reptiles, and similar animals that do not represent an unusual risk to persons or property.

DENSITY — The number of dwellings per unit of land.

DRIVE-THROUGH FACILITY — Any place or premises used in whole or in part for the sale, dispensing, or provision of goods or services to customers in automobiles, including those establishments where customers may serve themselves and may eat or drink food, refreshments, or beverages on the premises.

DRIVEWAY — A private roadway providing access to a street

DUMPSTER — An accessory use of a property where trash or recyclable material, or other type of waste or refuse, is stored temporarily, having a capacity of at least one cubic yard.

DWELLING or DWELLING UNIT — A building or portion thereof that is used exclusively for human habitation and which provides complete living facilities, including permanent provisions for sleeping, eating, cooking, and sanitation.

DWELLING, MULTIPLE-FAMILY — A building containing three (3) or more attached dwelling units and is surrounded by open space or yards.

DWELLING, SINGLE-FAMILY — A building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards, designed for and occupied by one family only.

DWELLING, TWO-FAMILY or DUPLEX — A building containing two (2) attached dwelling units and is surrounded by open space or yards.

COTTAGE HOUSING/BUNGALOW COURTS – Two or more detached single-family dwellings occupied and arranged around one, two, or three sides of a common yard or court.

TOWNHOUSE/ROWHOUSE – Attached single family dwelling units, each with a private entrance, that are attached horizontally by the sharing of a common wall and occupy space from the ground to the roof.

SECTION 2.06 “E”

ERECTED – Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and similar activities.

ESSENTIAL SERVICES — Means the erection, construction, alteration, or maintenance by public utilities, as defined herein, or by municipal departments, boards of commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety or general welfare.

EXCAVATION – Any breaking of ground, except common household gardening and ground care.

EXOTIC ANIMALS — Any species of animal, reptile, or bird that is not indigenous to the environs of Shelby and that is not, in the judgment of the Zoning Administrator, normally considered a farm animal or a domesticated animal, and that may potentially be dangerous to humans, domestic animals, or property if not properly managed.

SECTION 2.07 “F”

FABRICATION — To construct, make and form, build, or manufacture goods.

FAMILY —

- A. One or more persons, occupying a single dwelling unit, all related by blood, legal adoption, or marriage, and not more than three other persons; or
- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. The term "family" shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration or other similar determinable period of time.

FARM — The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

FARM MARKET — A place or an area where transactions between a farm market operator and customers take place, including roadside stands, where at least 50 percent of the products marketed and offered for sale at a farm market (measured as an average over the farm market's marketing season or up to a 5-year timeframe) must be produced on and by an affiliated farm. Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales in accordance with Michigan laws, and then sold at the affiliated farm market, as long as allowed by local, state, and federal regulations.

FENCE — An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FINANCIAL INSTITUTION — An establishment where the principal business involves the provision of financial and banking services to consumers or clients, such as banks, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

FLOOR AREA, GROSS — The sum of the horizontal areas of all floors of a building or an addition to an existing building, measured from the exterior faces of the exterior walls. For all office buildings and for any other building where the principal use thereof shall include the basement, the basement floor area shall be included, except that part that contains heating and cooling equipment and other basic utilities.

FLOOR AREA, USABLE — The sum of horizontal areas of all floors of a building, measured from the exterior faces of the exterior walls, that are used for or intended to be used principally for living space, or for the sale of merchandise or services, or for use to serve patrons, clients, or customers and all areas devoted to employee work space. Such floor area that is used or intended to be used principally for the storage or processing of merchandise, elevators, stair

bulkheads, utilities, or sanitary facilities shall not be considered usable floor area. For the purposes of this ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.



Figure 2.3. FLOOR AREA

FRATERNAL OR SOCIAL CLUB or LODGE – An organization of persons, or their location thereof, for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for a profit and open only to members, not the general public.

FREIGHT AND LOGISTICS ESTABLISHMENT – An establishment devoted to the process of planning, implementing, and controlling the shipping, storage, and receiving of resources from distributors and suppliers.

FUNERAL HOME - A facility used for the preparation of the deceased for burial, visitation, and the conduct of memorial and funeral services.

SECTION 2.08 “G”

GARAGE, PRIVATE — An accessory building or portion of a principal building designed or used for the parking and storage of vehicles owned and operated by the residents thereof and other storage incidental to a residential use such as rakes, lawnmowers, garbage cans, etc., and that is not a separate commercial enterprise available to the general public.

GRADE – The gradient, the rate of incline or decline expressed as a percentage. For example, a rise of 25 feet in a horizontal distance of 100 feet would be expressed as a grade of 25%.

GRADE, FINISHED — The final elevation of the ground level after development.

GRADE, MEDIAN — The finished median ground elevation along the perimeter of the building.

GREENBELT – A strip of land of definite width and location reserved for the planting of shrubs, trees, or grasses to serve as an obscuring screen in carrying out the requirements of this Ordinance.

SECTION 2.09 “H”

HEIGHT – The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, the building height is the average vertical distance measured from the established grade to the highest point of the roof surface of a flat roof; to the deck of mansard roofs; and to the mean height level between the top plate of the building wall and the ridge of gable, hip, and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.

HOME OCCUPATION – Any occupation, profession, or activity carried out for gain from a residential property that is clearly subordinate and incidental to the residential nature of the property, and which may involve business activities generally conducted at other locations, or the sale or exchange of services at the residential property.

HOSPITAL – A facility providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the hospital facility.

HOTEL or MOTEL – An establishment containing lodging accommodation designed for use by transients or travelers or temporary guests. Facilities provided may include a kitchen, maid service, laundering of linen used on the premises, telephone and secretarial or desk service, meeting rooms, restaurants, cocktail lounges, and other ancillary uses.

SECTION 2.10 “I”

INOPERABLE VEHICLE – A motor vehicle which can no longer propel itself and/or is not legal to operate on a public road.

SECTION 2.11 “J”

JUNK – Any worn out or discarded materials including but not limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage, discarded appliances, and yard debris.

JUNK YARD – see “Salvage Yard.”

SECTION 2.12 “K”

KENNEL, COMMERCIAL. Any lot or premise on which three (3) or more domesticated animals are either permanently or temporarily boarded or trained for remuneration.

SECTION 2.13 “L”

LIVE/WORK – A structure, or a part of a structure, used both as a residence and for any nonresidential use permitted in the zoning district in which the unit is located.

LIVING AREA – An area that is habitable for the entire year.

LOADING SPACE — An off-street space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

LOT — A parcel of vacant or occupied land, land intended to be occupied by a building and accessory buildings, or land utilized for principal accessory uses together with setbacks, yards, and open spaces as required by this Ordinance. A lot shall also mean a portion of a condominium project, as regulated by Public Act 215 under the Michigan Public Acts of 1978, as amended, designed and intended for separate ownership as use. The definition of “Lot” shall also include any platted lot, metes and bounds parcel or site condominium unit. Land separated by a public or private road or street shall be considered separate lots for the purposed of this Ordinance.

LOT AREA — The area within the boundary lines of the lot, but excluding that portion located within a public road right-of-way or private road right-of-way or easement.

LOT COVERAGE — The part or percent of the lot occupied by buildings, including accessory buildings, roof porches and patios, arbors, breezeways, and similar features. Lot coverage shall not include fences, walls, hedges, roads, parking areas, driveways, unroofed porches or patios, or swimming pools.

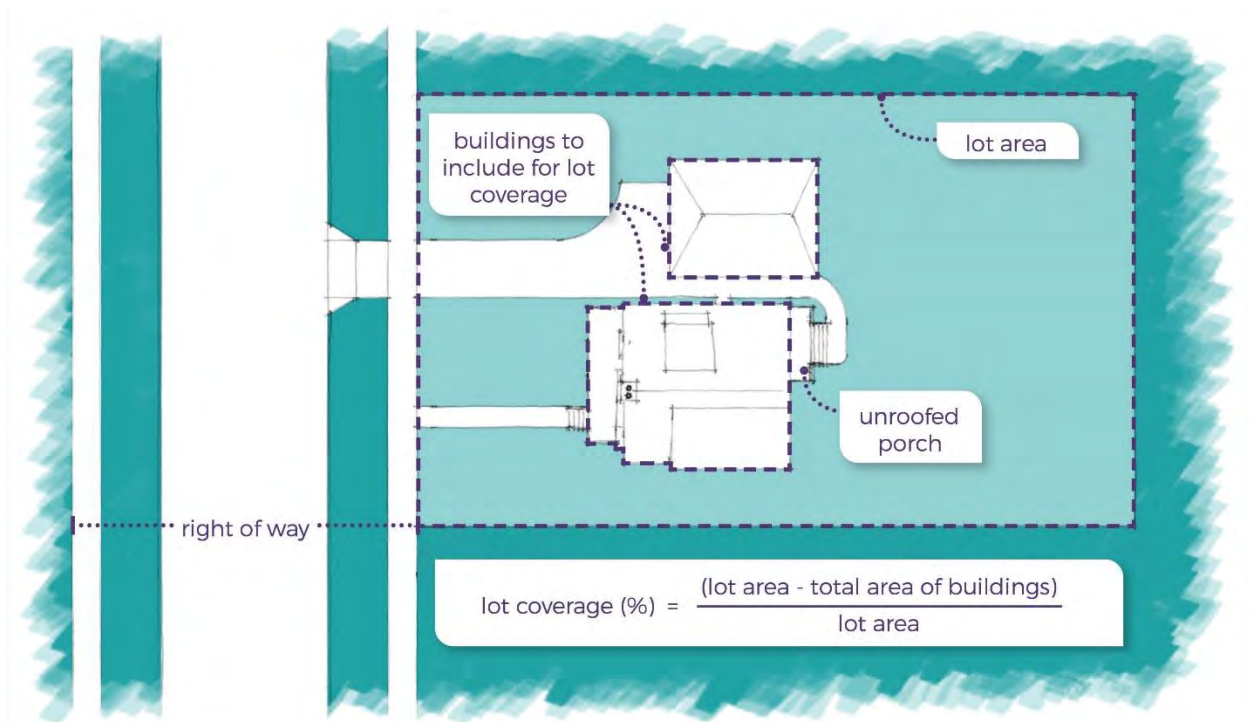


Figure 2.4. LOT AREA AND COVERAGE

LOT DEPTH — The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot where there is no rear lot line

LOT FRONTAGE — The front of a lot that shall be construed to be the portion adjacent to the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontages.

LOT LINES —

- A. **FRONT LOT LINE** — In the case of an interior lot, that line separating the lot from the public or private street. In the case of a corner lot, through lot, or other lot with more than one frontage, that line separating the lot from either street shall be the front lot line. In cases where none of these definitions are applicable or the front lot line is not apparent, the Zoning Administrator shall designate the front lot line in consideration of the orientation of existing or proposed buildings, the property's address, the property's relationship to adjoining lots, and similar factors.
- B. **REAR LOT LINE** — That lot line opposite the front lot line, except in the case of corner lots and through lots, which shall not have a rear lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long lying farthest from the front lot line and wholly within the lot. In cases where none of these definitions are applicable or the rear lot line is unclear, the Zoning Administrator shall designate the rear lot line.
- C. **SIDE LOT LINE** — Any lot line not a front or rear lot line. In the case of a corner lot, the two lot lines opposite the front lot lines shall be considered side lot lines.

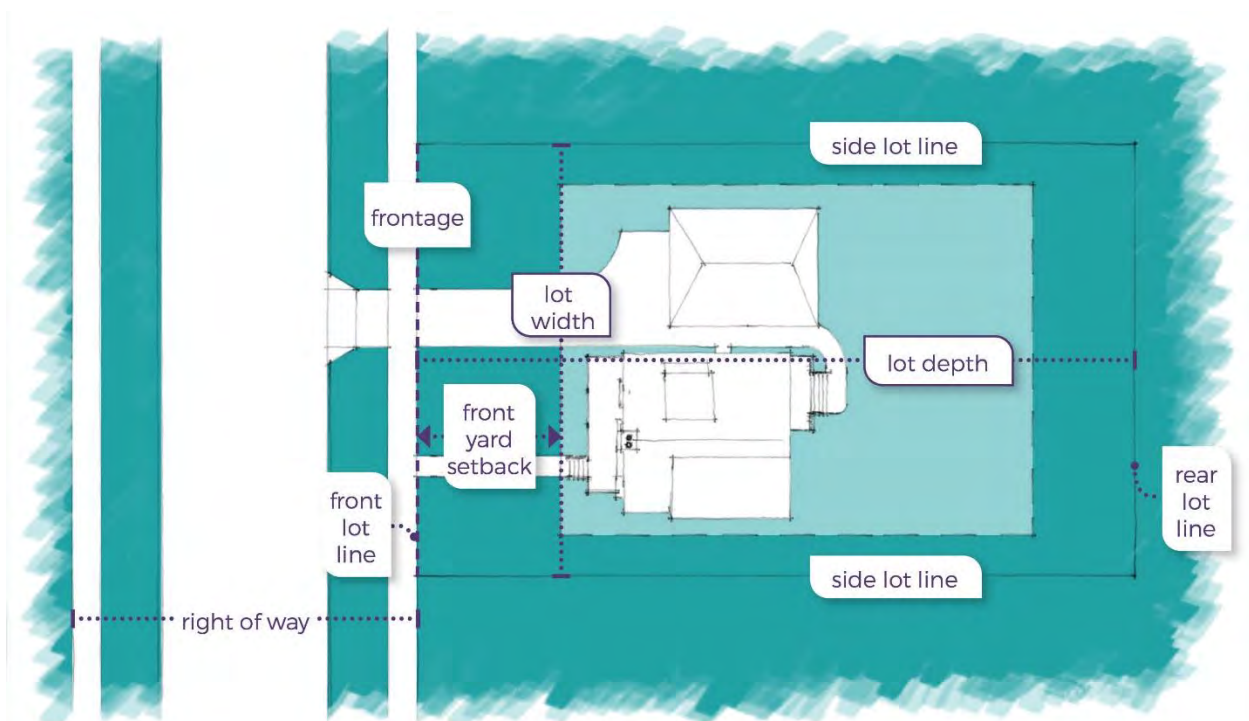


Figure 2.5. LOT DEPTH, WIDTH, FRONTAGE, AND LOT LINES

LOT WIDTH — The horizontal straight-line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

LOT OF RECORD — A parcel of land, the dimensions of which are shown on a document or map on file with the Oceana County Register of Deeds or in common use by village or county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

LOT TYPES

- A. CORNER LOT — A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet on an interior angle of less than 135° .
- B. INTERIOR LOT — Any lot other than a corner lot with only one frontage on a street.
- C. THROUGH LOT or DOUBLE FRONTAGE LOT — A lot other than a corner lot with frontage on more than one street.

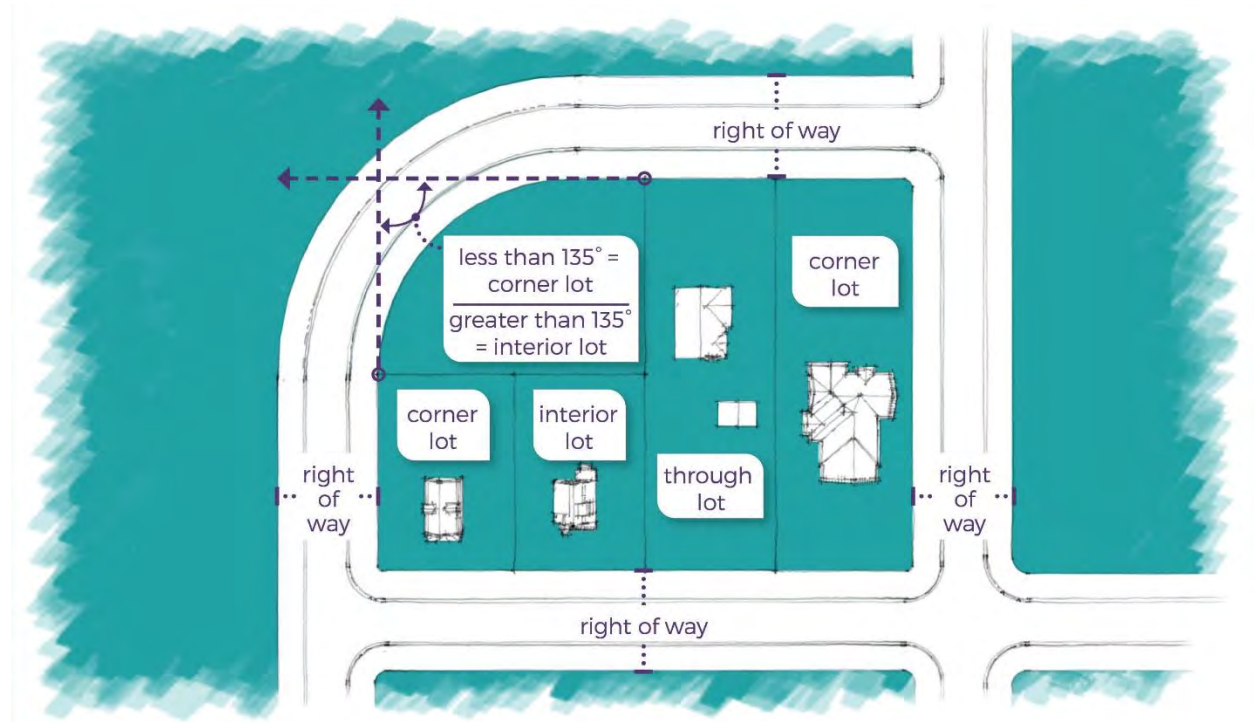


Figure 2.6. LOT TYPES

SECTION 2.14 “M”

MAIN BUILDING – see “Principal Building.”

MASTER PLAN — The adopted comprehensive, long-range master plan intended to guide growth and development in the Village of Shelby.

MANUFACTURED HOME COMMUNITY – A use which is a parcel of land under the control of a person upon which three or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home and which is not intended for use as a temporary manufactured home or trailer.

MEDICAL OFFICE – A facility in which medical, health, dental, and related providers maintain offices and provide services to patients on an outpatient basis.

SECTION 2.15 “N”

NATURAL FEATURE — Physical characteristics of the subject property that are not manmade.

NONCONFORMING BUILDING OR STRUCTURE — A building, structure, or portion thereof that does not conform to the provisions of this Ordinance for the district in which it is located.

NONCONFORMING LOT — A lot that fails to conform to the present area, dimensions, or location requirements of the applicable zoning district in which it is located.

NONCONFORMING USE — A use that does not conform to the use regulations of the district in which it is located.

SECTION 2.16 “O”

OPEN AIR BUSINESS – A permanent business including the sales and/or display of retail merchandise or services outside of a permanent structure including, but not necessarily limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boat or home equipment sales, repair, storage, or rental services.
- B. Outdoor display area, storage, or sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities,.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumber yards.

SECTION 2.17 “P”

PARK, PLAYGROUND, or COMMUNITY CENTER - Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other buildings and structures; and other places where the public is directly or indirectly invited to visit or permitted to congregate, libraries, museums, or community centers.

PARKING AREA — An off-street open area for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors, or employees. A parking area shall include access drives within the actual parking area, and shall be limited in use to motor vehicles.

PARKING SPACE – An area of definite length and width, such area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

PERSONAL SERVICE ESTABLISHMENT — An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparels, including but not limited to barbershops or beauty shops, health and fitness clubs/salons, nail salons, and similar activities.

PLACE OF PUBLIC ASSEMBLY — Buildings, structures, and grounds, including theaters, churches, auditoriums, convention space, stadiums, sports arenas, concert halls, lecture halls, and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship or similar activities involving assembled groups of people numbering 30 or more.

PLANNING COMMISSION — The Village of Shelby Planning Commission.

PLANNED UNIT DEVELOPMENT (PUD) — A specific parcel of land or several contiguous parcels of land, under single ownership and control, for which a comprehensive physical development or redevelopment plan has been prepared establishing a functional use area or areas, density patterns where applicable, a fixed system of streets, including limited access service drives where applicable, service drives, provisions for public utilities, drainage and other essential services, all of which shall be subject to review and approval by the Village and which has been, or will be, developed in strict accordance with the approved plan.

PRINCIPAL BUILDING — A building in which is conducted the principal or main use of the lot on which it is located.

PRINCIPAL USE — The principal use to which a lot or structure on a lot are devoted and the primary or principal purpose for which the premises exist.

PRIVATE SCHOOL — Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a preschool, elementary, middle, or high school, college or university, trade school and the like, which does not secure the major part of its funding from any governmental agency.

PROFESSIONAL OFFICE — A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

PROFESSIONAL SERVICE ESTABLISHMENT — An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, publishing, information technology, consulting, and other similar services.

PUBLIC/QUASI-PUBLIC USE — Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other buildings and structures; and other places where the public is directly or indirectly invited to visit or permitted to congregate, such as churches, municipal off-street parking lots, libraries, museums, or fraternal organizations.

PUBLIC OR PRIVATE UTILITY — Means any person, firm or corporation (includes cooperative municipal department, board or commission) duly authorized to produce and/or furnish under federal, state or municipal regulations, whether to the public, or wholesale market, the sale and/or distribution of gas, steam, electricity, sewage disposal, communications, television, telegraph, transportation or water within the Village. This includes all appurtenances necessary or associated with the distribution or servicing of the utility, with the following exceptions: The term "public utilities/private utilities" does not include wireless communication facilities.

PUBLIC/UTILITY SERVICE BUILDING — A building or structure located thereon, used or intended to be used by any public utility for the storage, service, or maintenance of public utility equipment or vehicles, including related improvements such as a parking lot for parking vehicles or automobiles to serve a public utility.

SECTION 2.18 “Q”

SECTION 2.19 “R”

RECREATIONAL VEHICLE — A vehicle designed or constructed for the transportation of people, primarily for recreational purposes, and which may permit occupancy thereof as a dwelling or sleeping place, including motor homes, campers, camper trailers, off-road vehicles, boats and utility trailers.

RECREATION FACILITY, INDOOR – A facility containing facilities for recreational activities, such as tennis, bowling, billiards, karate, gymnastics, platform games, swimming, exercise rooms, handball, and similar activities.

RECREATION FACILITY, OUTDOOR – A privately owned establishment containing facilities for recreational activities primarily conducted outdoors, such as miniature golf, go-kart tracks, tennis, children’s amusement parks, or similar recreational uses.

RESEARCH, DEVELOPMENT, AND LABORATORY FACILITY – A facility for carrying on investigations in the natural, physical, or social sciences, which may include engineering, product development, and testing, but which does not involve the mass manufacture, fabrication, processing, or sale of products or services.

RESIDENTIAL ABOVE RETAIL/OFFICE - A mixture of land uses in which dwelling units are located on floors or stories above retail businesses uses located on the ground floor of the building.

RESTAURANTS – A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands, and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

RETAIL ESTABLISHMENT – An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RIGHT-OF-WAY — A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, sidewalk, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

ROADSIDE STAND – A building, structure, or area of land designed or used for the display and sale of farm products grown or produced on an affiliated farm.

ROOF PITCH — The amount of slope of the roofline in terms of angle or other numerical measure; for example, one unit of vertical rise for three (3) units of horizontal shelter is expressed as "1:3."

SECTION 2.20 “S”

SALVAGE or JUNK YARD - An open space where waste, surplus, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to, house-wrecking and structural steel materials and equipment, automobile wrecking, and other manufactured goods that are worn, deteriorated, or obsolete.

SELF-STORAGE FACILITY — A type of commercial storage warehouse that consists of one or more buildings that contains individual, compartmentalized, and controlled-access stalls of various sizes leased or rented on individual leases for seasonal recreational vehicles, boats for personal use, or other personal storage uses.

SETBACK, REQUIRED — The distance needed to obtain minimum front, side, or rear setback requirements of this Ordinance.

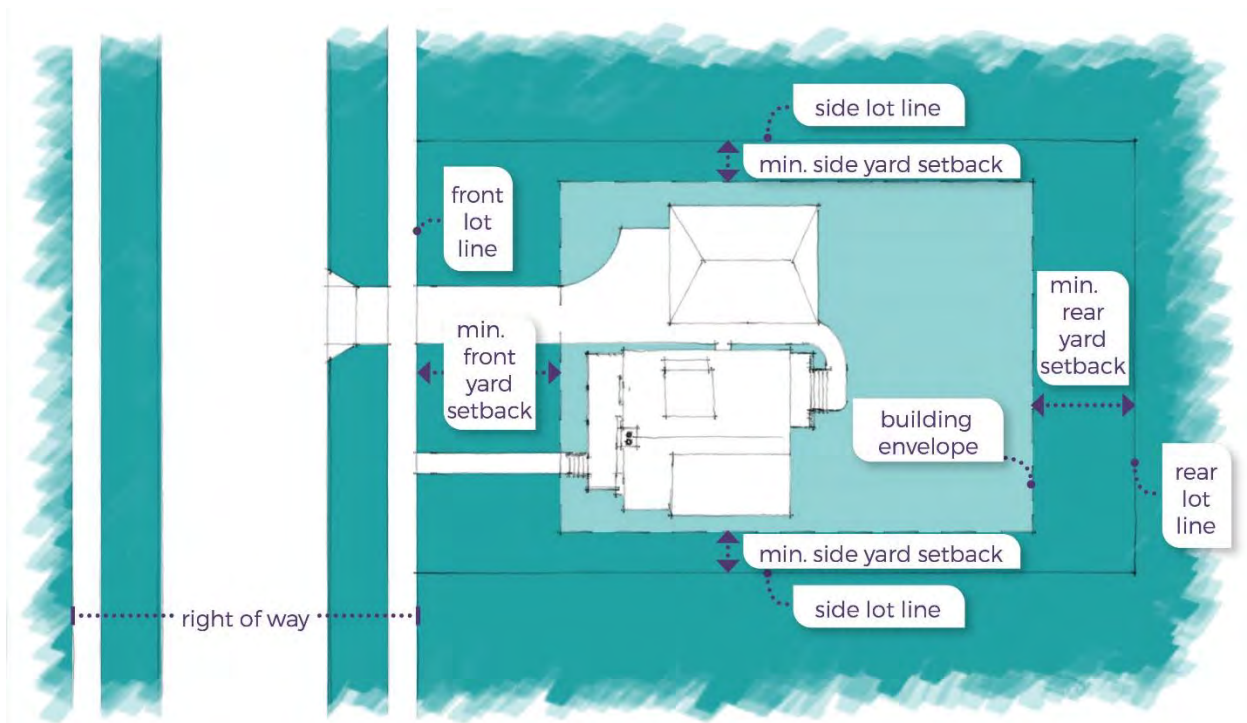


Figure 2.7. REQUIRED SETBACKS

SEXUALLY ORIENTED BUSINESS — An establishment engaged in providing services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

SCREEN — To conceal from view; or a structure or landscape materials providing enclosure and a visual barrier between the area enclosed and adjacent properties and rights-of-way.

SHIPPING AND LOGISTICS — An establishment devoted to the process of planning, implementing, and controlling the shipping, storage, and receiving of resources from distributors and suppliers.

SIGN — The use of any words, numerals, figures, devices, designs, or trademarks by which anything is advertised, identified, displayed, or used to attract attention to an object, person, institution, firm, profession, business, product, service, event, location, statement, concept, or anything else and is visible to the general public. The following are definitions of sign types:

- A. **ANIMATED SIGN** — Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation, not including electronic message boards.

- B. AWNING SIGN – A sign that is either attached to, affixed to, or painted on a marquee, canopy, or awning projecting from and supported by the building.
- C. BANNER – A sign constructed of lightweight fabric or similar material that is not permanently mounted to a pole or a building by a frame at one or more edges.
- D. BILLBOARD – A large outdoor sign elevated high off the ground so as to be seen by vehicular travelers on nearby roadways.
- E. ELECTRONIC MESSAGE BOARD – A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.
- F. FREESTANDING SIGN – A sign structurally separate from and not attached to any building, which is attached directly to the ground surface in a permanent manner, or support by one or more uprights, poles, or braces attached to the ground surface in a permanent manner.
- G. GOVERNMENT SIGN – A sign that is constructed, placed, or maintained by the federal, state, or local government, or a sign that is required by the federal, state, or local government.
- H. GROUND SIGN – A freestanding sign which is placed directly on the ground surface, without the use of uprights, poles, or any other structure to elevate the sign face above the surrounding grade and which is up to six feet in height.
- I. ILLEGAL SIGN – A sign which does not meet the requirements of this Ordinance and which does not have a legal nonconforming status.
- J. POLE SIGN – A freestanding sign supported by one or more uprights, poles, or braces, or other support placed in or upon the ground.
- K. PORTABLE SIGN – A temporary sign which is designed to be moved easily from place to place, that is not permanently attached to the ground or to a building or other structure, that may be supported by wheels, a portable stand, or a chassis, and may have provision for towing behind a vehicle.
- L. PROJECTING SIGN – A sign that projects from and is supported by the wall of a building.
- M. ROOF SIGN – A sign attached to and projecting from the roof surface of a building.
- N. SANDWICH BOARD – A movable sign not secured or attached to the ground surface, constructed in such a manner as to form an “A” or tent-like shape.
- O. TEMPORARY SIGN – A sign that is not permanently affixed to the ground and is designed, constructed, or intended for use for a limited period of time.
- P. WALL SIGN – A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure, and the exposed face of which shall be on a plane parallel to the building wall to which it is attached.
- Q. WINDOW SIGN – A sign which is applied or attached to, or located within, three feet of the interior of a window on a structure which can be seen through or from the window of the structure.

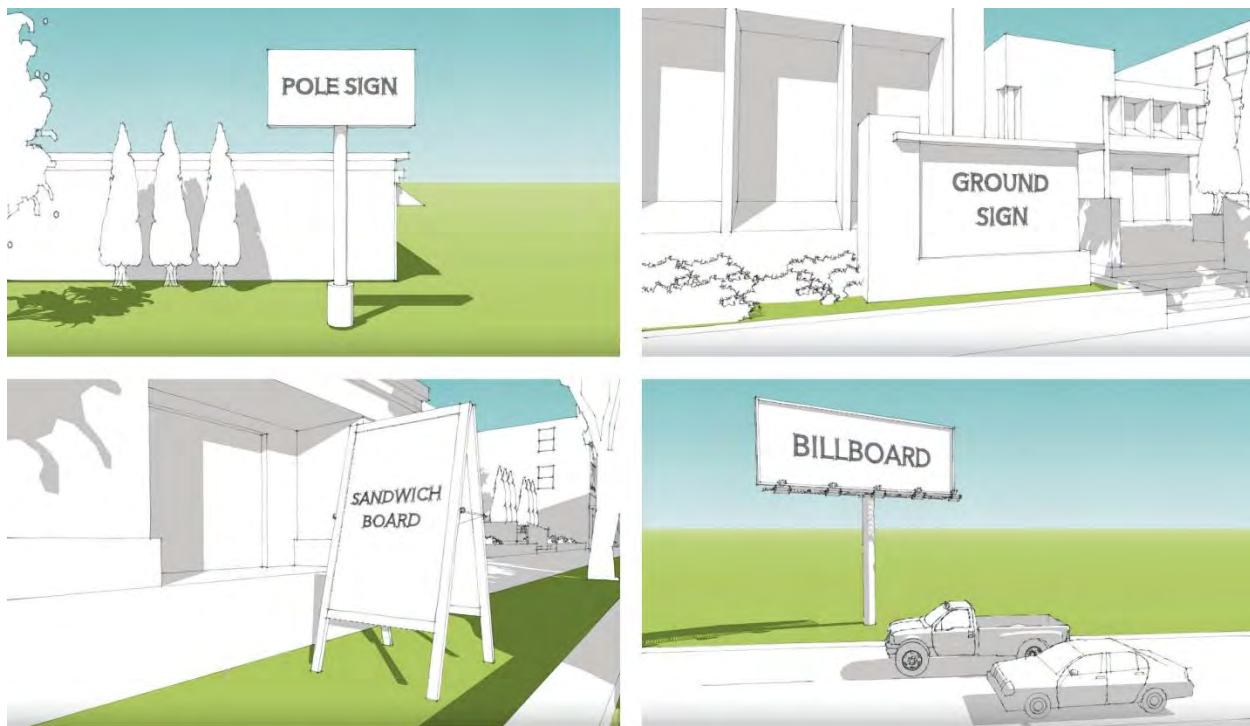


Figure 2.8. FREESTANDING AND TEMPORARY SIGNS



Figure 2.9. BUILDING MOUNTED SIGNS

SIGN AREA — The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

SITE CONDOMINIUM — A method of subdivision where the sale and ownership of sites is regulated by the Condominium Act (P.A. 59 of 1978), as amended, as opposed to the Land Division Act.

SITE PLAN — The development plan for one or more lots on which is shown the existing and proposed conditions of the lot as required by Chapter 15 of this Ordinance.

SPECIAL LAND USE or SPECIAL USE — A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as special uses, if the Planning Commission approves specific provisions for such special use.

SPECIFIED ANATOMICAL AREAS — Specified anatomical areas shall include:

- A. Less than completely and opaquely covered human genitals, anus, and female breasts at or below the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES — Specified sexual activities shall include:

- A. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; or
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in subsections A, B, or C above.

STATE LICENSED RESIDENTIAL FACILITY (1 to 6 PERSONS) — A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or Child Care Organizations Act 1973 PA 116, MCL 722.111 to 722.128, and provides services for not more than six (6) individuals.

STATE LICENSED RESIDENTIAL FACILITY (7 to 12 PERSONS) — A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or Child Care Organizations Act 1973 PA 116, MCL 722.111 to 722.128, and provides services for 7 to 12 individuals.

STORAGE, OUTDOOR — The outdoor standing or placement of usable and/or potentially usable goods or equipment other than for display and not including waste or scrap materials, other than in junk yards.

STORY — That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above then the ceiling next above. A basement shall not be counted as a story.

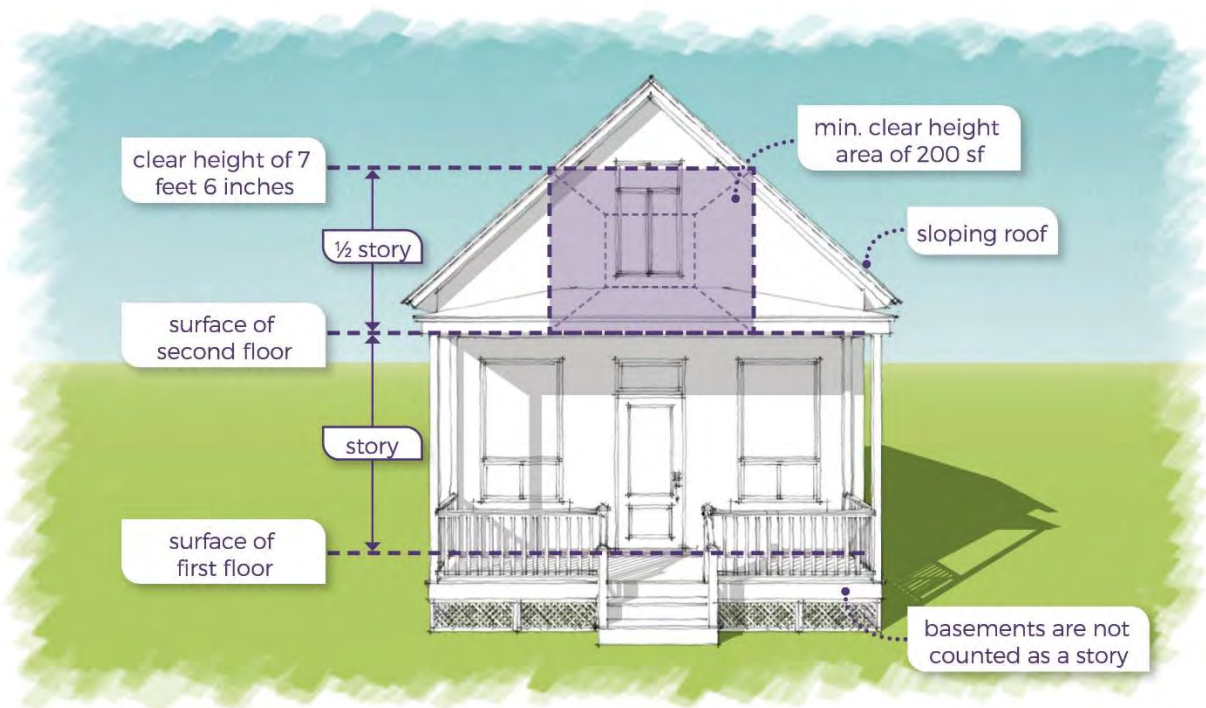


Figure 2.10. STORY

STORY, HALF — An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches.

STREET — A dedicated public right-of-way, other than an alley, that provides the principal means of access for vehicular traffic to abutting property.

STREET, PRIVATE — A street that is not legally owned by, and has not been accepted by the village or other governmental entity.

STRUCTURE — Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, decks, signs, billboards, poster panels, swimming pools, tennis courts, antennas, signs, and television dish antennas. For the purposes of this Ordinance, driveways, walkways, patios, parking lots, and similar things shall not be considered structures.

SWIMMING POOL, PRIVATE — Any artificially constructed non-portable structure, erected in connection with or appurtenant to one or more private residences, either above or below or partly above or partly below grade, located either in part or wholly outside of a permanently enclosed and roofed building, which is designed to hold water to a depth any place in said structure greater than twenty-four (24) inches when filled to capacity, and intended to be used for recreational purposes.

SECTION 2.21 “T”

TEMPORARY USE OR BUILDING — A land use or building that is accessory to a permitted use and of a non-permanent nature, intended for limited duration, and permitted to exist during periods of construction of the principal building or for special events.

TOWNHOUSE/ROWHOUSE – See definition under “Dwelling or Dwelling Unit”

SECTION 2.22 “U”

SECTION 2.23 “V”

VARIANCE – Permission to depart from the literal requirements of this Zoning Ordinance granted by the Zoning Board of Appeals pursuant to Chapter 17.

VEHICLE – A motorized conveyance designed and intended for the purpose of moving people or goods.

VEHICLE REPAIR, MAJOR – Any activity involving the general repair of motor vehicles or trailers, including but not limited to, repairs and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, tire replacements and repairs, wheel alignment and balancing, repair and replacement of shock absorbers, and similar uses.

VEHICLE REPAIR, MINOR – Any activity involving the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including collision servicing, including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle rust-proofing; and similar activities.

VEHICLE SERVICE STATION – A structure or structures and space combined and used solely for servicing motor vehicles with the usual operating commodities such as gasoline, oil, batteries, tires, and other minor accessories, or services such as hand washing, waxing, and lubricating, and in connection with which there is no major repair or refinishing of motor vehicles, except that the repair of tires, lights, changing of batteries, or minor automobile repairs and adjustments shall be permitted.

VEHICLE WASH ESTABLISHMENT – Any building or premises or portions thereof used for the commercial washing of automobiles.

VETERINARY CLINIC – A facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the clinic use, which may or may not include boarding or kennel facilities. Kennel facilities are those lots or premises on which four (4) or more domestic animals, six (6) months of age or older are kept temporarily or permanently for the purposes of breeding, boarding, or sale.

VILLAGE COUNCIL – The Village Council for the Village of Shelby.

SECTION 2.24 “W”

WAREHOUSE – A building used primarily for the storage of goods and materials.

WIRELESS COMMUNICATION ANTENNA – A device, the surface of which is used to transmit and/or receive radio-frequency signals, microwave signals, cellular, or other signals transmitted to or from other antennas or telecommunication facilities for commercial or municipal purposes.

WIRELESS COMMUNICATION TOWER – Any structure which is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio or other communication purposes. Such structures may be freestanding, such as self-supporting lattice, guyed, or monopole towers, or attached to an existing structure, such as artificial trees, steeples,

light poles, poles supporting power lines or similar mounting structures that effectively camouflage or minimize the visual impact of antennas and towers.

SECTION 2.25 “X”

SECTION 2.26 “Y”

YARD — The open spaces on the same lot with a principal building unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance and as defined herein:

- A. **FRONT YARD** — An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building wall.
- B. **REAR YARD** — An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building wall.
- C. **SIDE YARD** — An open space between the principal building and the side lot line, extending between the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the principal building wall.

YARD, REQUIRED — The yard required by this Ordinance when the applicable front, side, or rear setbacks are applied.

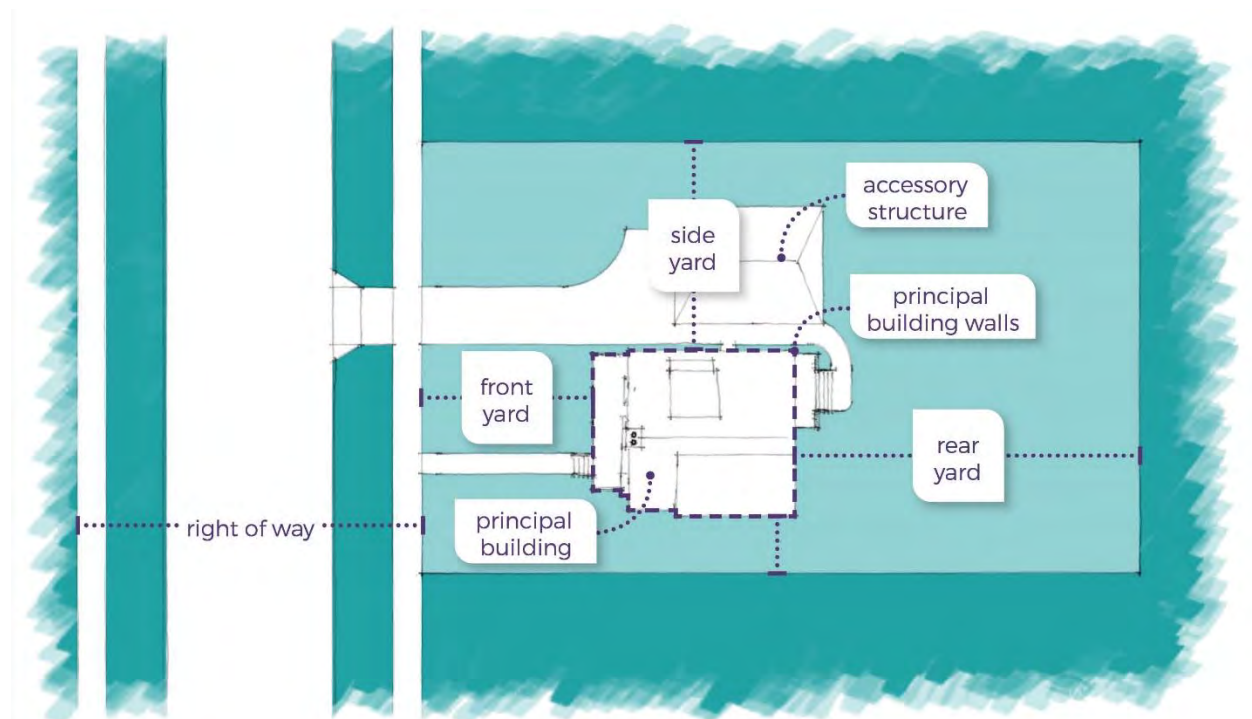


Figure 2.11. YARDS

YARD SALE – A basement sale, garage sale, rummage sale, yard sale, attic sale, flea market sale, lawn sale, estate sale and other sale of tangible personal property, including, but not limited to, clothing, household items, general merchandise, tools, garden implements, toys, recreational equipment, vehicles, used or second-hand items usually found in the home, or other similar personal property, which is advertised to the public.

SECTION 2.27 “Z”

ZONING ENABLING ACT or ZONING ACT – Act 110 of the Michigan Public Acts of 2006, as amended, known as the Michigan Zoning Enabling Act.

ZONING ADMINISTRATOR – The Village of Shelby Zoning Administrator as established in Section 18.01.

ZONING BOARD OF APPEALS – A board consisting of three members with the powers and duties as provided in Article VI of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended and as established in Chapter 14 of this Ordinance.

ZONING PERMIT – A Village of Shelby Zoning Permit as established in Section 18.02 of this Ordinance.

CHAPTER 3. GENERAL PROVISIONS

SECTION 3.01. APPLICATION OF REGULATIONS

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

SECTION 3.02. EXCAVATIONS AND CLEARING OF LAND

- A. Unless associated with a bona fide forestry, agricultural practice, or public works project (such as the installation of utilities or other similar activities conducted by, or on behalf of the state, federal government, county, or village), it shall be unlawful for any person to engage in land clearing of over one (1) acre, including the stripping and removal of topsoil or existing vegetation, from any site, parcel, or lot within the Village of Shelby without first receiving appropriate development approval.
- B. No soil, sand, gravel, or other earth material shall be removed from any land within the Village of Shelby without first receiving appropriate development approval, with the following exceptions:
 - 1. When the earth removal is incidental to an operation for which a building permit has been issued by the building official.
 - 2. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
 - 3. When the earth removal involves less than five hundred (500) cubic yards;
 - 4. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;
 - 5. The soil removal will not be in violation of any other section of this Ordinance or other Village ordinance, Natural Resource and Environmental Protection Act of 1994, or any other applicable state or federal law.

SECTION 3.03. RESERVED

SECTION 3.04. MAIN BUILDING OR PRINCIPAL USE

Except as may otherwise be noted in this Ordinance, each parcel shall contain only one (1) main building or principal use, except for development that forms a unified function and appearance in the opinion of the Zoning Administrator, including but not limited to, the following:

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

SECTION 3.05. STREET ACCESS

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

SECTION 3.06. CLEAR VISION

- A. No plantings, fencing, signs, or other obscuring structures or elements shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. This unobstructed corner shall be a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended.
- B. This Section shall not prohibit the placement of shrubs or other materials less than thirty (30) inches in height at maturity.
- C. No vegetation shall be maintained in any setback area of any district, which, in the opinion of the Zoning Administrator, will obstruct the view from vehicles entering or leaving the site from driveways or adjacent roadways.

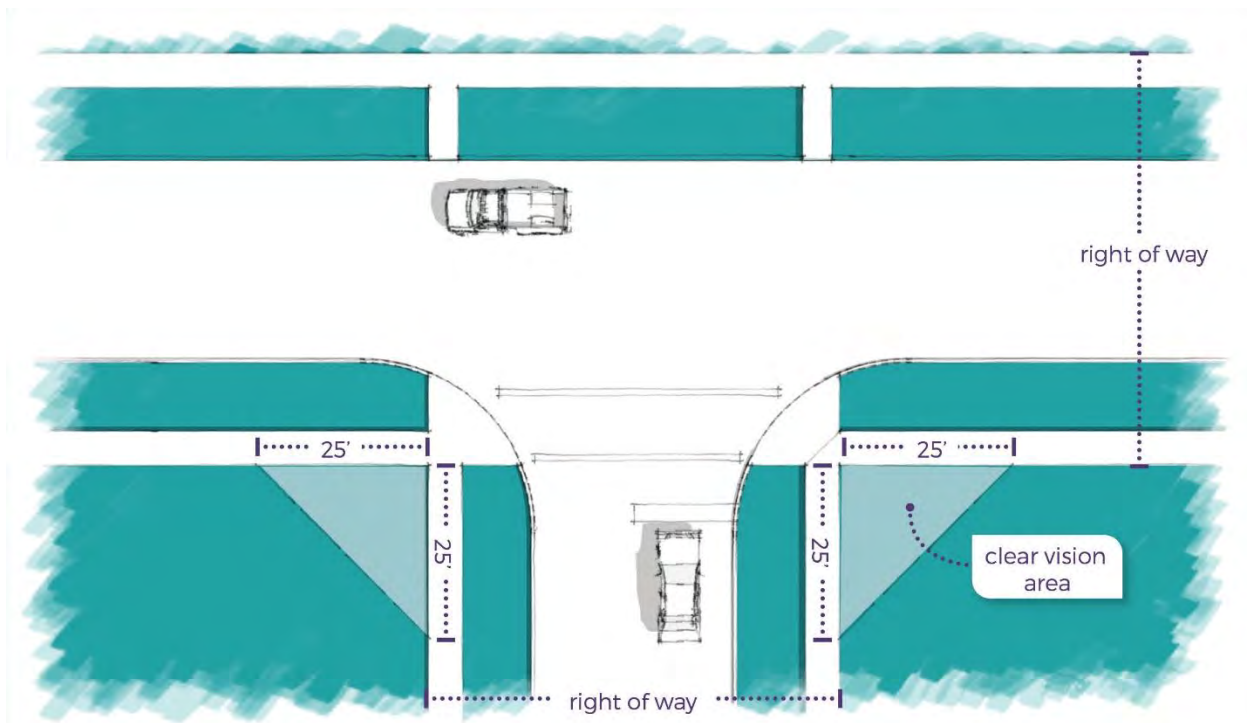


Figure 3.1. CLEAR VISION CORNER

SECTION 3.07. SETBACK DETERMINATION

- A. Where the front yards for existing principal buildings in the vicinity of and in the same zoning district as the subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of the existing principal buildings on the same side of the street and entirely or partially within two-hundred (200) feet of the side lot lines of the subject lot.
- B. The front yard setback line shall be measured from the right-of-way line or easement line abutting a street to the front foundation line of the building.
- C. Side lot setbacks shall be measured from the property line to the foundation of the building.
- D. On corner and through lots, the front yard requirements shall apply on both streets and both frontages shall be considered front yards. Corner lots shall have two (2) front lot lines, two (2) side lot lines, and no rear lot line. On lots with three front lot lines, lots shall have three front yards, and remaining yards not adjacent to a street shall be considered side yards.
- E. For the purposes of this Ordinance, lot lines that abut an alley shall not be considered front yards unless the lot does not front upon any other public street.

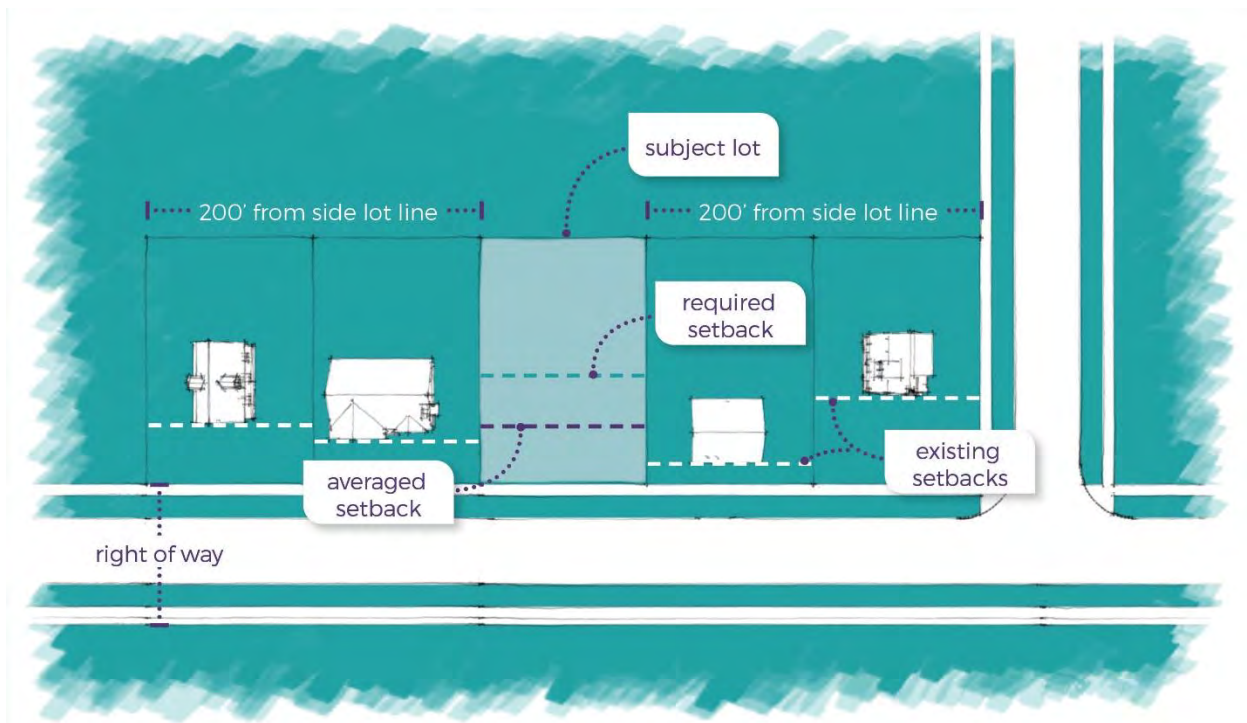


Figure 3.2. SETBACK AVERAGING

SECTION 3.08. LOT WIDTH AND DEPTH

- A. The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the front yard setback line and shall not be diminished throughout the rest of the lot.
- B. Lots on a cul-de-sac shall have a minimum frontage of forty (40) feet at the front property line. Lot width, as measured at the front yard setback line, shall not be diminished throughout the rest of the lot.
- C. Any lot created after the effective date of this Ordinance shall not have a depth that exceeds four (4) times its width.

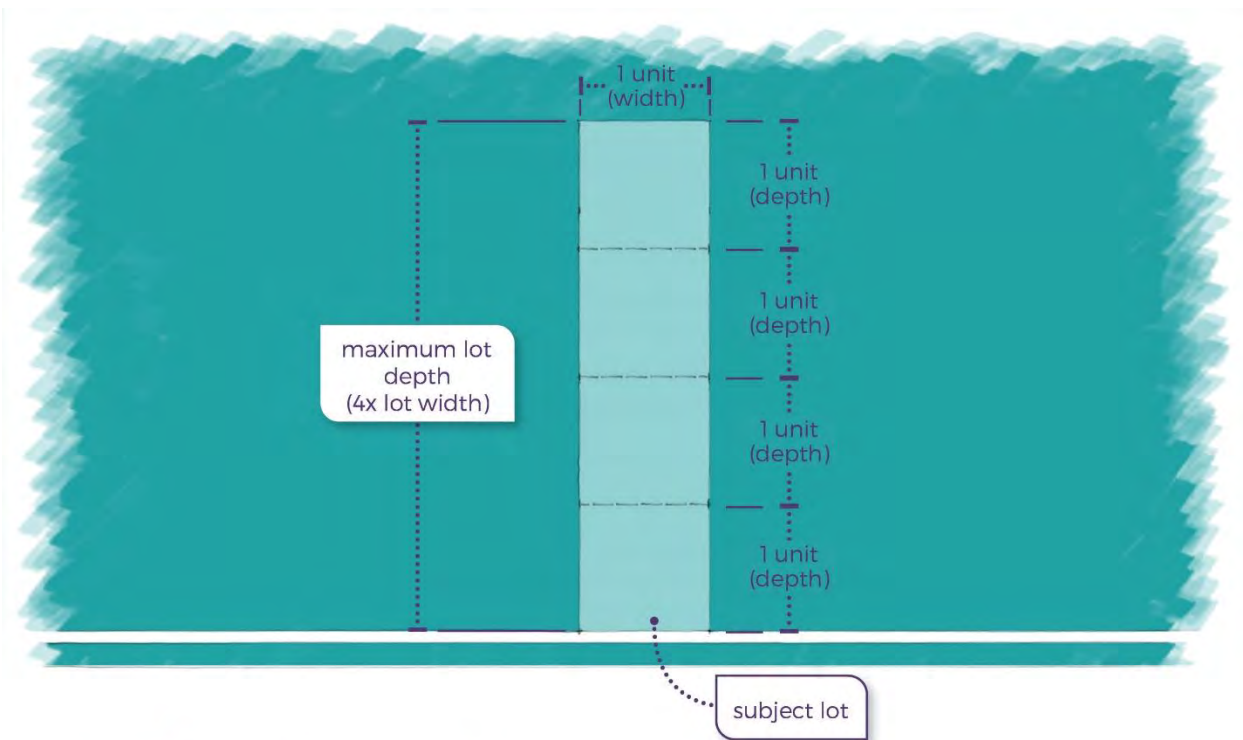


Figure 3.3. LOT WIDTH TO DEPTH RATIO

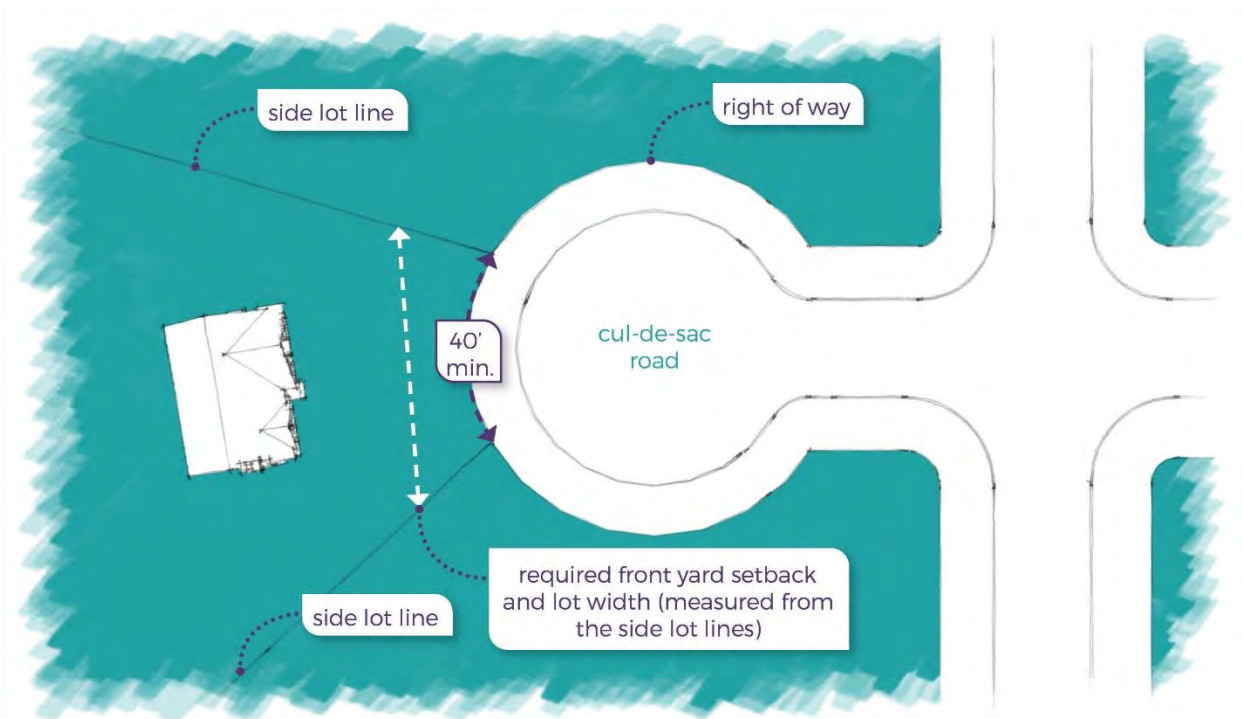


Figure 3.4. CUL-DE-SAC WIDTH

SECTION 3.09. HEIGHT EXCEPTIONS

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

SECTION 3.10. PROJECTIONS INTO YARDS

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

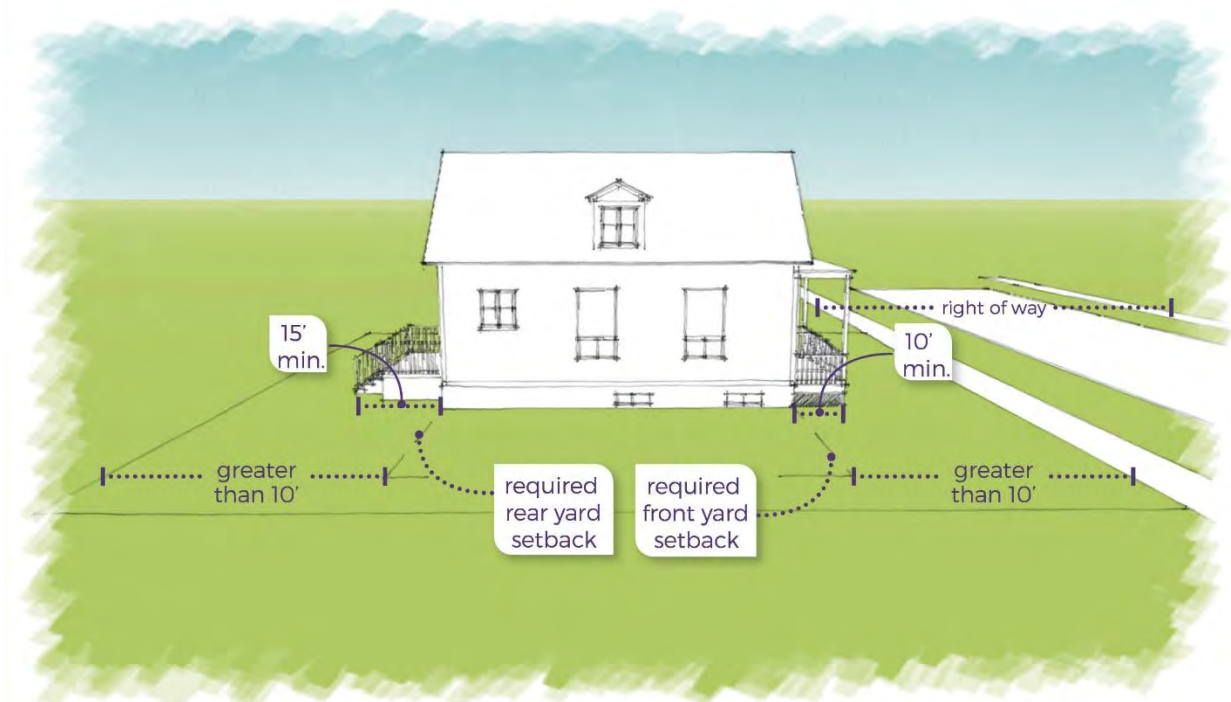


Figure 3.5. PROJECTIONS INTO YARDS

- C. If these structures are permanently enclosed on any side, covered in any manner, or otherwise considered attached and integrated to the main building, they shall be considered part of the main building.

SECTION 3.11. ACCESSORY BUILDINGS AND STRUCTURES

- A. Permit Required. A zoning permit shall be secured prior to the placement of any accessory building greater than 200 square feet.
- B. Unless associated with a bona-fide agricultural operation, no accessory building shall be permitted on any lot which does not contain a main building. Construction of an accessory building may occur during construction of the main building, only when a permit for a main building has also been secured for that lot.
- C. Attached accessory buildings and structures that are structurally part of the main building shall conform to the setback requirements of the main building.
- D. Detached accessory buildings shall be a minimum of ten (10) feet from any other building or structure.
- E. Detached accessory buildings shall be a minimum of five (5) feet from rear or side property lines and shall not be permitted in the front yard.
- F. No more than two (2) accessory buildings with an area less than 200 square feet may be permitted on any lot.
- G. No accessory building shall be used in any part for residential dwelling or sleeping purposes, unless specifically approved as an accessory dwelling unit in accordance with Section 3.19.
- H. Manufactured homes, semi-trailers, or other vehicles shall not be used as accessory storage structures.
- I. No accessory building shall occupy any portion of a required greenbelt or buffer in any District.
- J. After the construction of an accessory building upon a parcel of land, no subsequent division of that land shall be made which would cause the building located thereon to be in violation of the terms of this Ordinance.
- K. For Residential Districts and uses, the following standards shall also apply:
1. Accessory buildings shall be of residential construction and shall be compatible with surrounding residential homes. Sheet metal walls are prohibited.
 2. The total square footage of all accessory buildings shall not exceed the following:

Lot size	Maximum Area	Maximum Height
Less than 5,000 sq. ft.	384 square feet	14 feet
5,001 – 10,000 sq. ft.	672 square feet	14 feet
10,001 – 15,000 sq. ft.	864 square feet	18 feet

15,001 – 20,000 sq. ft.	1,080 square feet	20 feet
20,001 – 35,000 sq. ft.	1,200 square feet	24 feet
35,001 sq. ft. – 1 acre	1,600 square feet	24 feet
1 acre or more	2,000 square feet	24 feet

SECTION 3.12. OUTDOOR LIGHTING

- A. Intent. The intent of this section is to create and maintain safe nighttime environments for both pedestrians and drivers on public and privately owned roadways and rights-of-way by minimizing brightly lit surfaces and lighting glare, to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to "sky glow," and to reduce light pollution from lighting luminaires and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission, Planner, and/or Zoning Administrator in the review of all site plans submitted for approval under the terms of this Ordinance.
- B. Applicability.
1. The requirements of this section shall apply to any new development or renovation requiring a site plan pursuant to Article 15 of this Ordinance and to the installation of any new regulated lighting as follows:
 - a. Lighting intended to illuminate a site, façade, and/or parking area for commercial, industrial, institutional, and multifamily residential uses.
 - b. Private street lighting and public street lighting, including that installed by a municipality or power company.
 - c. All forms of neon lighting.
 - d. Lighting of signs.
 - e. Lighting not exempted under Subsection 3.12(B)(2), below.
 2. Exemptions. Lighting commonly associated with single-family or two-family dwellings, including porch lights, low-level lawn lights, soffit-mounted facade illumination and special seasonal lights, such as holiday decorations, are exempted from the requirements of this Section 3.12, provided, however, that flood lights, spot lights, or yard lights mounted higher than 10 feet above grade shall be subject to the standards of Section 3.12(D) hereof. Lighting associated with temporary or special events may be exempted from the requirements of this Section upon issuance of a Zoning Compliance permit from the Zoning Administrator.
 3. New developments, as well as existing developments under consideration for other than minor changes in a site plan as described in Section 15.08(A), shall comply with this Section.
- C. Lighting Plan. Any new development or renovation requiring a site plan pursuant to Article 15 of this Ordinance contains exterior lighting, the site plan shall include detail on the design and location of all exterior lighting, including light poles, wall-mounted fixtures, and

illuminated signs. The Planning Commission or Zoning Administrator may require submission of additional details, including lighting output, bulb type, planned lighting coverage, and other elements to determine the extent of proposed lighting on the site and any potential impacts off the property subject to site plan approval.

- D. General Standards. Outdoor lighting shall be designed, constructed, and maintained in compliance with the following standards:
1. Direct light and directly-reflected light shall be confined to the subject property by screening, shielding, landscaping or other measures such that no lighting in excess of one-half ($\frac{1}{2}$) foot candle shall be cast on adjoining private property. This standard shall not apply to internally lit signs meant to be visible from the adjoining public right-of-way.
 2. Lamps or bulbs, fixtures and other physical parts of the fixture assembly shall be shielded or hooded to prevent glare from traveling beyond the subject property and to ensure that the light source is not directly visible from beyond the boundary of the subject property.
 3. Light fixture assemblies shall have 100 percent cut-off above the horizontal plane at the lowest part of the light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane.
 4. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color.
 5. Beacon, strobe, and search lights shall be prohibited. No colored lights shall be used at any location or in any manner which might be confused with or construed as traffic control devices.
 6. The Planning Commission or Zoning Administrator may impose additional conditions on site illumination to further the intent of this Section.
 7. Internally-lit signs, electronic message boards, back-lit changeable copy signs and signs incorporating light emitting diode (LED), liquid crystal, video or other types of internally-lit systems shall be designed, shielded and oriented so as not to interfere with adjacent public rights-of-way or adjacent property and such signs shall not emit light exceeding either 10 foot candles measured four feet perpendicular to the sign face or one-half foot candle measured at the property line of adjoining privately-owned property.

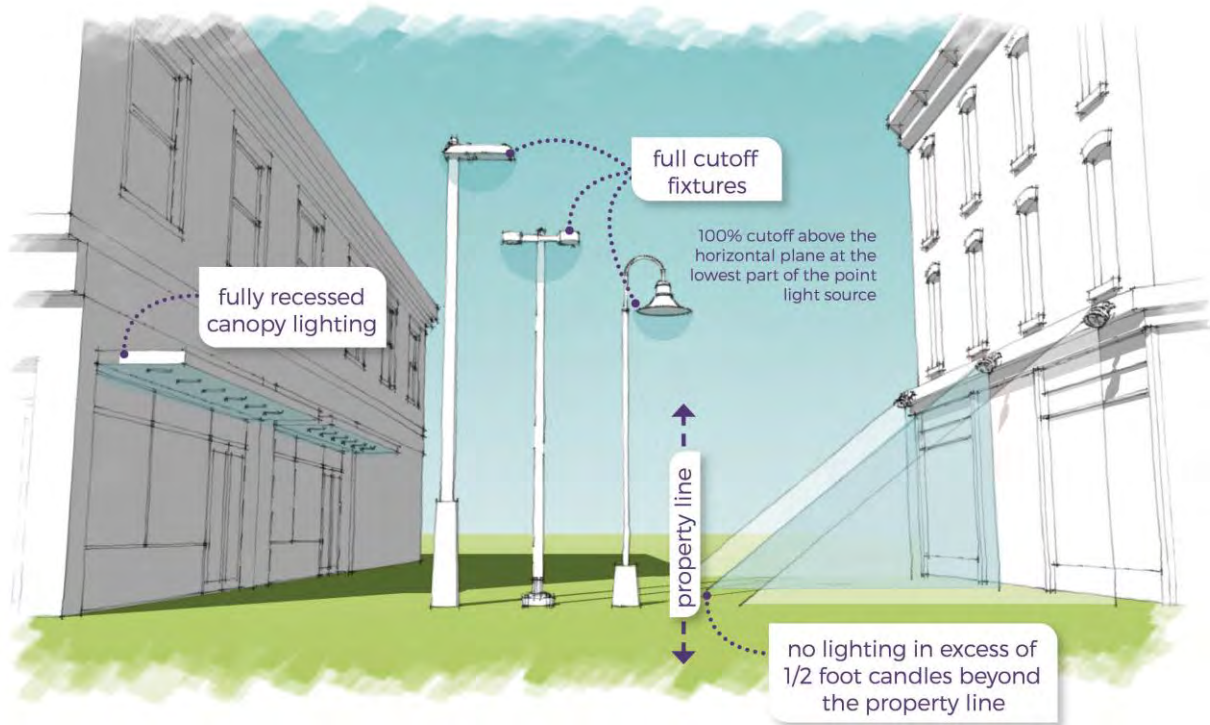


Figure 3.6. OUTDOOR LIGHTING GENERAL STANDARDS

- E. Parking Lot Lighting. In addition to the general standards for outdoor lighting in Section 3.12(D) above, the following standards shall also apply to parking lot lighting:
1. All illumination for parking lots in nonresidential districts shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light on other than normal parking hours each day.
 2. The source of illumination in all parking lots abutting a residential district or use shall not be higher than 20 feet above the parking lot surface.

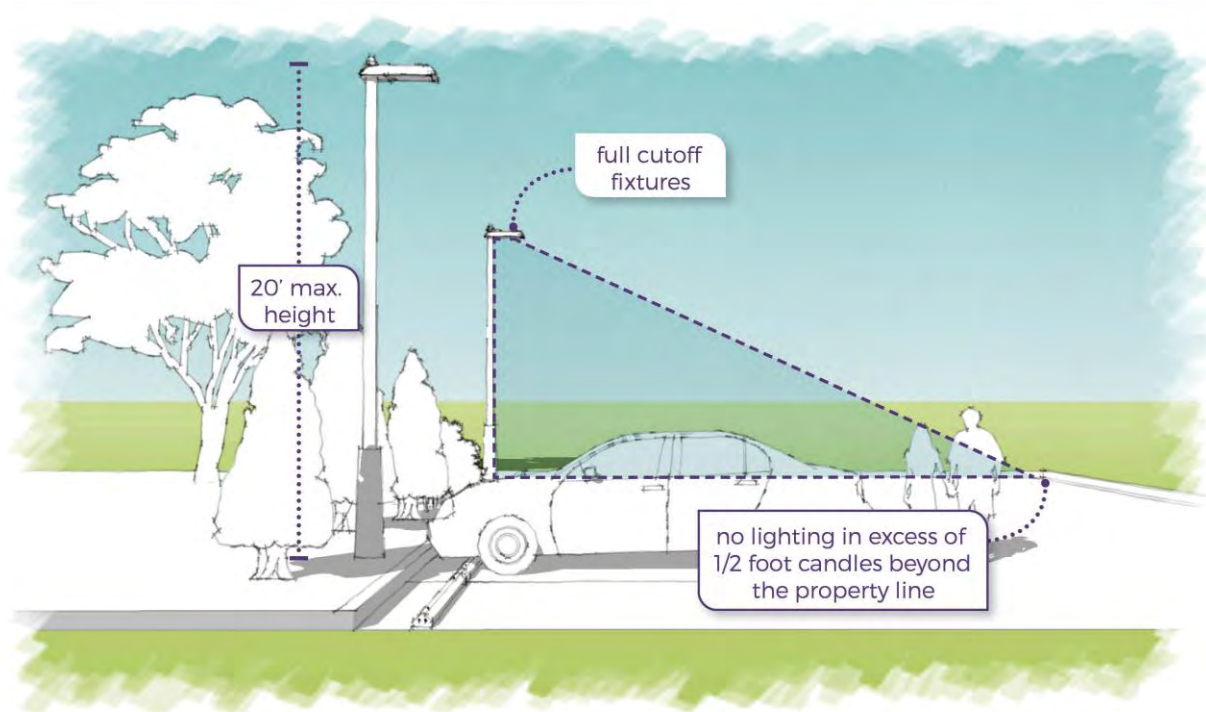


Figure 3.7. PARKING LOT LIGHTING

- F. Departures. Outdoor lighting shall comply with the requirements of this Section 3.12, provided, the Planning Commission may, upon written application approve departures from the standards of this Section if the Planning Commission finds that the following standards are demonstrated by the applicant:
1. The use is a permitted or special land use in the zoning district.
 2. The applicant will undertake reasonable measures to assure that the public health, safety, and welfare would not be undermined by approving the proposed departure.
 3. The proposed plan includes reasonable measures to mitigate any glare, annoyance, intrusion or distraction would be caused by the proposed lighting.
 4. The general public would benefit from the proposed lighting and the proposed lighting and related land use are consistent with the Village Master Plan.

SECTION 3.13. SWIMMING POOLS

- A. Permit Required. Any pool, spa, or hot tub over (24) inches deep and with a surface area of more than two hundred and fifty (250) square feet shall not be constructed, installed, enlarged, or altered until a building permit has been obtained and shall comply with the requirements of this Section.
- B. The outside edge of the pool, spa, or hot tub wall and/or the deck and any other appurtenances shall not be located closer than ten (10) feet from any rear or side property line. Swimming pools, spas, or hot tubs shall not be located in the front yard.

- C. Each pool, spa, or hot tub shall be enclosed by a minimum five (5) foot high stockade fence, wall, or other structure or device, sufficient to make the pool, spa, or hot tub inaccessible to small children. This enclosure, including gates therein, must be not less than five (5) feet above the underlying ground; all gates must be self-latching with latches placed five (5) feet above the underlying ground or otherwise made reasonably inaccessible from the outside to small children.
- D. Where spas or hot tubs are equipped with a lockable safety cover complying with ASTM F1346 and swimming pools are equipped with a powered safety cover that complies with ASTM F1346, the areas where those spas, hot tubs, or pools are located shall not be required to comply with Section 3.13 C above.
- E. All swimming pool, spa, and hot tub installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 3.14. FENCES, WALLS, AND SCREENS

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

- J. Unless otherwise approved by the Planning Commission or Zoning Administrator, all fences shall be constructed of typical or traditional fencing materials, including but not limited to, wood or composite wood planks, aluminum, wrought iron, chain link, and polyvinyl.
- K. The height of a fence, wall, or screen shall be measured from the grade to the top of the fence. The artificial raising of land to increase the functional height of the fence beyond the limitations of this section is prohibited.

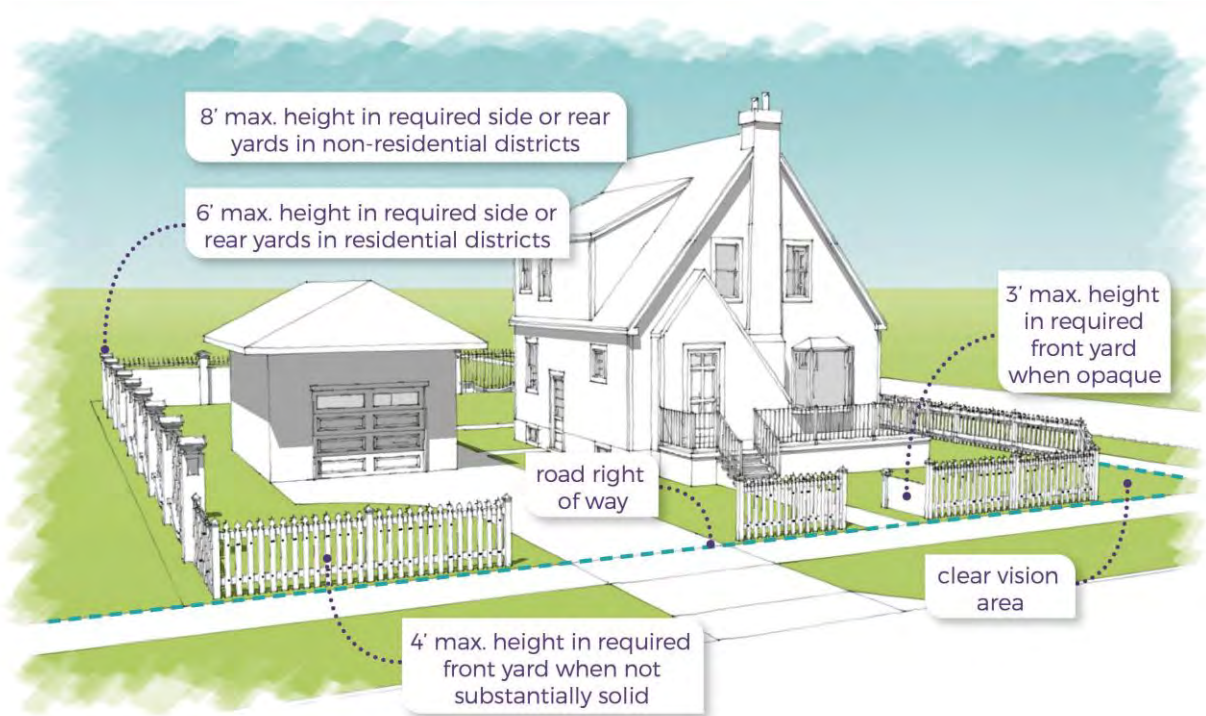


Figure 3.8. FENCES, WALLS, AND SCREENS

SECTION 3.15. REGULATIONS APPLICABLE TO ALL SINGLE-FAMILY DWELLINGS

- A. It is the intent of this Section to establish minimum standards of appearance and construction for all single-family dwellings, whether constructed on a lot, a pre-manufactured or pre-built building, or a manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with this Section.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes which are or may be adopted by the Village, and with applicable federal or state standards or regulations for construction.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, floor area, yard, and building height requirements of the District in which it is located.
- D. The dwelling unit shall be firmly attached to a permanent continuous foundation, which has a wall of the same perimeter dimensions as the dwelling unit and complies with applicable provisions of the adopted building code.

- E. Any crawlspace that may exist between the foundation and ground floor of the dwelling unit shall be fully enclosed by an extension of the foundation wall along the perimeter of the building.
- F. The dwelling unit shall have a minimum horizontal dimension across any front, side, or rear elevation of twenty-four (24) feet at time of manufacture, placement, or construction.
- G. Roof drainage in the form of a roof overhang of at least twelve (12) inches shall be provided to direct storm or melt water way from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.
- H. The dwelling unit shall contain no additions of rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- I. Storage areas with an area of no less than one hundred and twenty (120) square feet shall be provided within a building. The storage area may consist of a basement, closet area, attic, or attached garage in a main building, or in a detached accessory building which is in compliance with all other applicable provisions of Section 3.11.
- J. The dwelling unit shall be connected to public sewer and water supply systems.
- K. The foregoing shall not be construed to prohibit innovative design concepts involving such matters such as (but not limited to) solar energy, view, or unique land contour.
- L. The use of any portion of the basement of a partially completed building or accessory building for dwelling or sleeping purposes is prohibited in every zoning district, unless an accessory building is specifically approved as an accessory dwelling unit.
- M. The foregoing standards shall not apply to a manufactured home located in a manufactured home community licensed by the Michigan Manufactured Home Commission and approved by the Village according to the provisions contained in Chapter 15 of this Ordinance except to the extent required by state or federal law.
- N. If the dwelling unit is a manufactured home, the following standards shall also apply:
 - 1. Dwellings located in a manufactured home park regulated pursuant to Act 96 of 1987 (The Mobile Home Commission Act), as amended, shall comply with the terms of this Ordinance as applicable and the terms of that Act and all rules promulgated under it.
 - 2. All manufactured homes shall comply with the construction standards promulgated by the United States Department of Housing and Urban Development, 24 C.F.R. part 1700 to 1799, and parts 3280 and 3282, under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended. Manufactured homes shall be installed in accordance with part 6 of the administrative rules for Manufactured Housing, R125.1601 *et. seq.*
 - 3. The manufactured home shall be installed with skirting, and the wheels and towing mechanism removed.

SECTION 3.16. TEMPORARY USES OR BUILDINGS

Sidewalk sales, food trucks, pop-up stores, tents, or seasonal sales of goods are permitted in accordance with the following restrictions:

- A. Such temporary sales shall be permitted in the C1 or C2 districts.
- B. Registration: Any person, organization or business desiring to utilize property for a use authorized by this section shall first register with the Zoning Administrator on a form to be provided, and shall pay a fee for registration in an amount as established by the Village Council. The registration form shall be accompanied by a sketch plan identifying:
1. The shape, location and dimensions of the lot, including the shape, size and location of all existing buildings or other structures on the lot, off-street parking layout, and the location of any designated fire lanes.
 2. The shape, size and location of all buildings or structures to be erected or moved onto the lot, including tents, tables, stands, display racks, or vehicles from which the temporary sales will be conducted.
- C. Time limitations:
1. Registration for a sidewalk sale related to a permitted principal use otherwise occurring on the lot shall be effective for no longer than seven (7) days. There shall be a minimum seven-day gap between subsequent sales. No more than three (3) such temporary uses may occur on a particular lot within a single calendar year.
 2. Registration for a seasonal sale of goods, not related to a permitted principal use otherwise occurring on the lot (e.g., t-shirts, Christmas trees, sunglasses, fireworks, etc.) shall be effective for no longer than thirty (30) days. No more than one such seasonal sale shall be permitted on a lot within a single calendar year or at a time.
 3. Pop up shops may be permitted for no longer than thirty (30) days provided that the activity conducted would be permissible in the underlying zoning district and other applicable regulations of this Ordinance would be satisfied.
 4. A temporary tent related to a permitted principal use otherwise occurring on the lot may be erected for no longer than 30 days per calendar year.
- D. Regulations:
1. A temporary tent or sidewalk sale permitted in accordance with this Section shall comply with all applicable requirements for the zoning district in which it is to be located.
 2. A temporary structure used in conjunction a use permitted by this section use may be located in a front yard, but no closer than one-half (½) the distance between the right-of-way and the principal building.
 3. When a seasonal sale of goods is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable zoning regulations for the district in which it is to be located, including all requirements pertaining to lot size, height, setback, lot coverage, and off-street parking.
- E. The Village Council may issue permits for the temporary use and occupancy of property for uses not otherwise provided for in this ordinance (carnivals, special events, flea markets, environmental testing devices, etc.) and that do not require the erection or placement of any structures requiring foundations or connection to public water or sewer. For the purpose of this section, a temporary activity shall not extend for more than six (6) weeks in any year.
- F. Private garage sales, yard sales, estate sales, and the like are regulated by Chapter 812 of the Code of Ordinances of the Village of Shelby .
- G. Temporary Dwellings.

1. The parking or storage of recreational vehicles, campers, or boats and trailers on the street for more than forty-eight (48) hours at a time is prohibited. Such storage may not occur more than three (3) times per twelve-month period, and shall be separated by at least seven (7) days between each occurrence. The parking or storage of recreational vehicles, campers, or boats and trailers is permitted on a lot pursuant to Section 3.21.
 2. A recreational vehicle or camper may be used as a dwelling for guests of the property for not more than seven (7) days at a time.
 3. The Zoning Administrator may authorize the occupancy of a mobile home, existing dwelling unit, or recreational vehicle as a temporary residence for a period not to exceed one (1) year during construction or reconstruction of a permanent dwelling or new dwelling unit for occupancy by the applicant on the lot or parcel on which the temporary dwelling is proposed to be temporarily located, subject to the following:
 - a. The applicant must concurrently obtain zoning and building permit for the single-family dwelling to be constructed on the property.
 - b. Authorization for occupancy permit shall expire upon issuance of the certificate of occupancy for the principal dwelling.
- H. Temporary Structures. Temporary structures such as construction trailers, job-site offices, tool cribs, and similar structure may be permitted in accordance with the following requirements:
1. Such temporary structures shall not be occupied as a dwelling.
 2. Unless otherwise permitted by this Section, a temporary structure shall meet the setback requirements of its respective district. The Zoning Administrator must approve the site for the temporary structure prior to its placement.
 3. Construction trailers, job-site offices, tool cribs and similar temporary structures associated with building or public facility construction shall be properly anchored and may be located on any portion of a construction site, provided clear vision corners are maintained at all intersections and safe pedestrian passage is provided.

SECTION 3.17. ILLEGAL DWELLINGS

The use of any basement for dwelling purposes is prohibited in any Zoning District unless the basement meets the appropriate adopted building codes for the Village. Buildings erected as garages or accessory buildings shall not be occupied for dwelling purposes, unless specifically approved as an accessory dwelling unit in accordance with Section 3.19

SECTION 3.18. RESERVED

SECTION 3.19. ACCESSORY DWELLING UNITS (ADUS)

A. Location and Dimensional Requirements

1. ADUs are permitted in the R-1 and R-2 districts only upon receipt of a zoning compliance permit issued by the zoning administrator.
2. No more than one ADU shall be permitted on a parcel.

3. Detached ADUs shall be considered accessory buildings, and therefore shall only be permitted on properties where an accessory building could otherwise be located, subject to the provisions of this Section.
4. An ADU may be attached to the main building, a detached building, or located on the second story of a detached garage.
5. The area and height of a detached ADU shall not exceed the maximum requirements for an accessory building in the district in which the ADU is located.
6. Under no circumstances shall the maximum lot coverage for a given district be exceeded.
7. Detached ADUs shall comply with all setbacks for accessory buildings in the zoning district in which they are located. ADUs attached to the principal dwelling shall meet the same setbacks as required for the principal dwelling.
8. The minimum gross floor area of an ADU shall be 400 square feet.
9. The gross floor area of the ADU shall not exceed 80% of the area of the principal building footprint, but in no case shall it exceed 1,000 square feet.

B. Design Requirements.

1. The ADU shall include a kitchen, bathroom, and sleeping area separate from the primary residence, and the ADU shall meet all applicable provisions of the Building Code and other regulations.
2. The ADU shall comply with all building, electrical, mechanical, plumbing, property maintenance, and other applicable codes for dwellings.
3. The exterior design of an ADU, whether attached or detached, shall be compatible with the principal dwelling on the lot. The building form, height, construction materials, dimensions, and landscaping shall remain consistent with the principal structure and shall be harmonious with the character and scale of the surrounding neighborhood.
4. The design and location of the ADU shall maintain a compatible relationship to adjacent properties and shall not significantly impact the privacy, light, air, or parking for adjacent properties.
5. Windows in an ADU facing an adjoining residential property must be designed to protect the privacy of neighbors unless fencing or landscaping is provided as screening.
6. Attached ADUs shall have a separate entrance/exit from that of the primary dwelling unit. All interior doors and entryways linking the primary residence to the accessory unit shall be lockable.

C. Use and Occupancy Requirements.

1. The ADU shall not result in excessive traffic, parking congestion, or noise.
2. A minimum of one additional dustless off-street parking space shall be provided on the lot containing the ADU, in addition to parking required for the primary dwelling.
3. The property owner must occupy either the principal dwelling or the ADU.
4. The ADU shall be connected to public water and wastewater systems where such systems are available or required pursuant to applicable Village ordinances. If connected to a private well and septic system, such systems must be approved by the Oceana County Health Department.

5. If the ADU is connected to a public sewer system, it shall comply with all applicable regulations, including, but not limited to, the payment of additional service charges and/or connection fees as determined by the Village pursuant to the adopted Ordinances of the Village.
6. Neither the principal dwelling nor the ADU shall be utilized for short-term rental purposes.

D. Deed Restriction Required.

1. Before obtaining an occupancy permit, the property owner shall file with the zoning administrator a declaration of restrictions that shall be recorded with the Oceana County Register of Deeds containing a reference to the deed under which the property was acquired by the present owner, which shall state the following:
 - a. The zoning permit for the ADU shall be in effect only so long as either the main residence or the ADU is occupied as the principal residence by the applicant.
 - b. The ADU is restricted to the approved size.
 - c. The ADU shall not be sold separately from the principal dwelling.
 - d. All above declarations shall run with the land and are binding upon any successor in ownership.
 - e. The deed restrictions shall lapse upon the removal of the ADU.

E. Existing Accessory Dwelling Units.

1. ADUs in existence on the effective date of this Ordinance that do not comply with the standards of this Section shall be considered nonconforming uses and shall be subject to applicable provisions of Section 3.26 of this Ordinance.

SECTION 3.20. ESSENTIAL SERVICES

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

SECTION 3.21. STORAGE AND PARKING OF RECREATIONAL VEHICLES

- A. Within the R1 and R2 district districts, the outdoor storage or parking of RVs, boats, and trailers of any kind shall be permitted only in accordance with this section. The provisions of this section do not apply to vehicles regularly utilized in the conduct of a profession, occupation, or business such as work trucks, vans, and similar commercial vehicles with a capacity of one and one-half (1½) tons or less.
- B. The storage or parking of trucks of more than one and one-half (1½) tons capacity such as dump trucks, cement mixers, and semi-trucks and trailers is prohibited in residential districts.

- C. The outdoor storage of recreational vehicles, boats, and trailers shall be regarded as a permitted accessory use in the R1 and R2, districts, if such storage conforms to the provisions of this section.
- D. Such outdoor storage may be permitted within the rear yard or side yard, provided all stored material is placed no closer than three (3) feet from a side or rear lot line, and further provided that such storage does not prevent clear access between the front and rear yards of the lot for a person on foot.
- E. Such storage may occur in a front yard, provided that all stored material is placed on an improved surface (asphalt, concrete, asphalt millings, etc.) and that recreational vehicles and equipment are not located within 20 feet of the nearest edge of the street or sidewalk, whichever is closer.
- F. The open storage of disassembled or component parts for any vehicle of any type is prohibited.
- G. Any recreational vehicle or boat stored outdoors shall be the property of the occupant.
- H. Inoperable, unlicensed, or unregistered vehicles, boats, trailers, motorcycles, and vehicle parts shall only be stored in a completely enclosed structure.
- I. Recreational vehicles shall not be used as a dwelling unless authorized under Section 3.16 (B, 2-3) of this Ordinance.

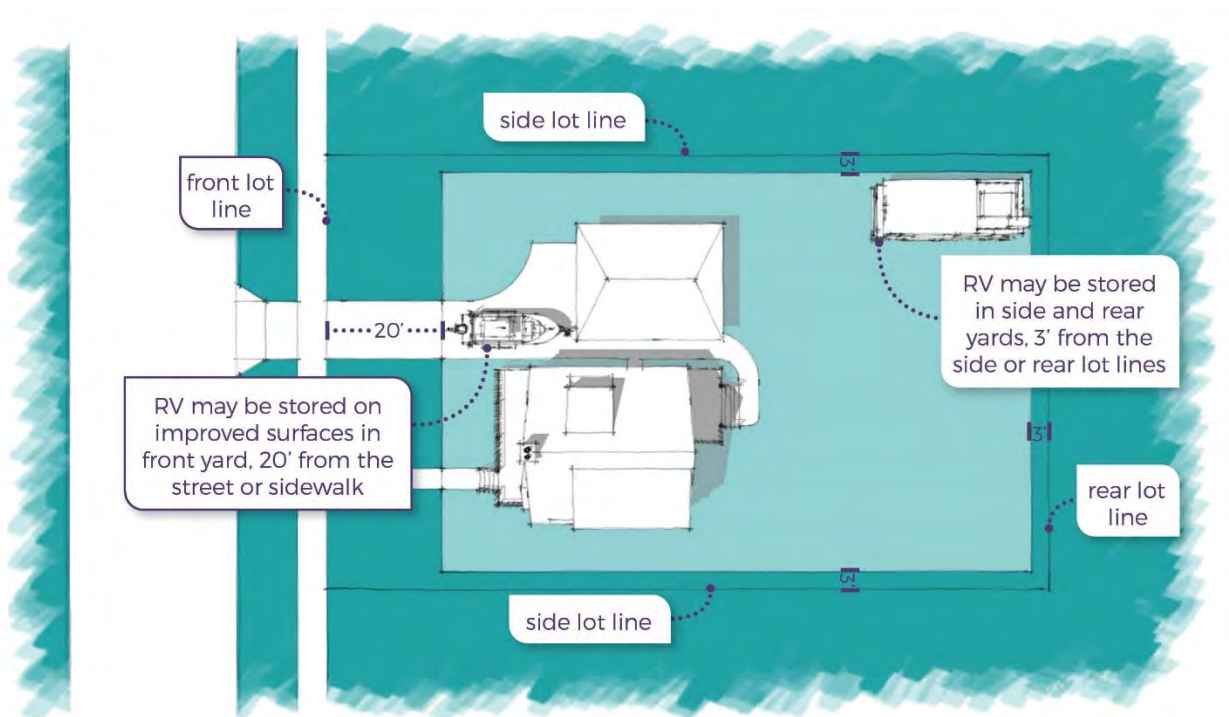


Figure 3.9. STORAGE AND PARKING OF RECREATIONAL VEHICLES

SECTION 3.22. RESERVED

SECTION 3.23. KEEPING OF ANIMALS

The keeping of animals shall be regulated by Section 610.03 of the codified Ordinances of the Village of Shelby.

SECTION 3.24. HOME OCCUPATIONS

- A. Permit Required. All home occupations shall be registered with the Zoning Administrator on a form provided by the Village and may require a fee as determined by the Village Council. The registration form shall be accompanied by such information as is necessary to demonstrate compliance with this Section.
- B. No person other than the resident occupants shall be engaged in the home occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home occupation shall be operated in its entirety within the principal dwelling or in an accessory building. If conducted within the dwelling unit, the home occupation shall not, in any case, exceed a total floor area of twenty five percent (25%) of the gross floor area of the dwelling unit.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one (1) sign as permitted by Section 16.03. The permitted sign shall be located on the same property as the home occupation and shall not be permitted within any street right-of-way.
- E. No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises.
- F. Any traffic generated by the home occupation shall not be so great as to cause adverse effects within or upon the surrounding neighborhood. Parking areas for a home occupation shall be located off street and outside the required yard areas.
- G. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

SECTION 3.25. RESERVED

SECTION 3.26. NONCONFORMITIES

- A. General Provisions.
 - 1. Any lot, use of land, or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, or structure which has been lawfully established

under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this Ordinance.

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

B. Nonconforming Uses.

1. No part of any nonconforming use shall be moved unless the movement eliminates or reduces the nonconformity.
2. If a nonconforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined by the Zoning Administrator to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - b. The property, buildings, and grounds have fallen into disrepair.
 - c. Signs or other indications of the existence of the nonconforming use have been removed.
 - d. Removal of equipment or fixtures that are necessary for the operation of the nonconforming use.

- e. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
 - 3. A nonconforming use shall not be changed to another use that is also nonconforming unless it is more conforming than the previous use. Once a conforming use is established the prior nonconforming use may not be reestablished.
 - 4. A nonconforming use shall not be enlarged, intensified, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Zoning Administrator upon reaching a determination that the proposed enlargement, increase, or greater area:
 - a. Is not larger than twenty five percent (25%) of the original nonconforming area.
 - b. Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots.
 - c. Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase, or greater area.
 - d. Complies with any reasonable conditions imposed by the Village that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.
 - 5. When the nonconforming use is a single-family dwelling, expansion of such single-family dwelling may be permitted without the ZBA approval required in subsection 4 above, provided that the floor area of the dwelling is not expanded by more than 30%.
 - 6. In the event that a nonconforming use is damaged by fire, wind, or an act of God or the public enemy, regardless of the extent of the damage, it may be rebuilt or restored provided that all other provisions of this Ordinance are met.
- C. Nonconforming Buildings and Structures.
- 1. The expansion of a nonconforming structure may be permitted provided that the expansion or addition complies with this Ordinance and does not increase the degree of nonconformity.
 - 2. Unless otherwise provided herein, in the event any nonconforming building or structure shall be damaged by fire, wind, or an act of God or the public enemy, it may be rebuilt or restored provided the cost of restoration thereof shall not exceed sixty (60) percent of the replacement value as determined by the Building Inspector. If the cost of restoration exceeds sixty (60) percent of the replacement value as determined by the Building Inspector, the building or structure shall only be rebuilt in conformance with all provisions of this Ordinance.
 - 3. In the case of a single-family or two-family dwelling, it may be rebuilt or restored provided the cost of restoration thereof shall not exceed ninety (90) percent of the replacement value as determined by the Building Inspector.
 - 4. A nonconforming building or structure shall not be moved in whole or in part except when the moving eliminates or reduces the nonconformity.

5. If any nonconforming building or structure is altered or modified to eliminate, remove, or reduce any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.

D. Nonconforming Site Improvements. This Ordinance recognizes that redevelopment will occur in the Village of Shelby, and oftentimes such redevelopment will occur on sites that do not meet the site development requirements of this Ordinance, such as regulations for landscaping, parking lot paving, dumpster enclosures, lighting, etc. The purpose of this section is to facilitate and encourage the redevelopment of these properties despite their nonconforming status. Thus, these improvements shall be deemed to be nonconforming site improvements and shall be permitted to continue, provided that they possess a legally nonconforming status, subject to the requirements of this Section.

1. A nonconforming site improvement shall not be expanded, altered, removed, or modified in a manner that increases the degree of nonconformance. However, site improvements may be made in a manner that maintains or reduces the degree of the nonconformity and brings the overall site closer to full compliance with this Ordinance.
2. Except as otherwise required by this Section, if a building expansion, change in land use, or other changes to the property occur that require site development improvements, nonconforming site improvements shall only be required to be brought into full compliance with this Ordinance to the extent necessary to accommodate the proposed changes. The required installation of site development improvements shall not require that the entire site to be brought into compliance with this Ordinance.
3. When the re-use or redevelopment is proposed and the total project value, including building and all proposed site improvements, is equal to or greater than 75% of the total replacement value of the existing building and site, then the site shall be brought fully into compliance with this Ordinance.
4. The Zoning Administrator or Planning Commission shall have the authority to require site improvements if existing conditions are deemed unsafe by any official charged with protecting the public safety.

E. Nonconforming Lots of Record.

1. A nonconforming lot may be used for the purposes for which it is zoned, provided that:
 - a. If already less than the minimum requirements of this Ordinance, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance.
 - b. Any main building on the lot shall be located so that at least sixty-six percent (66%) of the setback requirements of the District in which the lot is located are met.
2. Combination of Nonconforming Lots.
 - a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
 - (1) Are in common ownership.

- (2) Are adjacent to each other or have continuous frontage.
- (3) Individually do not meet the lot width or lot area requirements of this Ordinance.
- b. Parcels meeting the provisions of subsection 2, a, above, shall be combined into a lot or lots complying as nearly as possible to the lot width and lot size requirements of this Ordinance. No portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

SECTION 3.27. PRIVATE STREETS PROHIBITED

Private streets are not permitted in the Village of Shelby.

SECTION 3.28. RESERVED

SECTION 3.29. FARM MARKETS

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

SECTION 3.30. UNCLASSIFIED USES

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

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

Where a proposed use of land or use of building is not contemplated or specified by this ordinance or where the Zoning Administrator has a question as to the appropriateness of a use, which, although permitted, involves other features, which were not contemplated or specified by this ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this ordinance, or that it involves features, which were not contemplated or specified

herein, such use shall be prohibited. Nothing in this Section shall be construed to prohibit a future amendment of this Ordinance to provide for a land use that may be currently excluded.

SECTION 3.31. DUMPSTERS AND REFUSE CONTAINMENT

- A. Applicability. All dumpsters and refuse containers for all uses other than single-family and two-family dwellings and their accessory uses shall be contained within a dumpster enclosure. All such uses districts developed or expanded after the effective date of this Ordinance shall comply with the provisions of this Section.
- B. Location of dumpster enclosures.
 - 1. Dumpsters shall at least 15 feet from any building and in a location that is clearly accessible to the servicing vehicle. Dumpsters and dumpster structures shall not be located in any required front yard, nor upon any easement, public or private. Overhead utility lines must be taken into consideration when locating a dumpster structure.
 - 2. Dumpsters and dumpster structures shall be situated so as not to interfere with the access to any designed parking spaces, fire lanes, or roadways. Further, the space used by dumpster and dumpster structures shall not be included in the calculations for establishing the required minimum parking spaces.
- C. Design of dumpster enclosures.
 - 1. Dumpsters shall be screened on three sides with a decorative masonry wall or solid wood fencing, not less than six feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides. The gate shall be constructed in such a manner as to be lockable in both the open and closed positions. A cyclone-type wire fence may be used for the gate provided that the fencing is screened with decorative slats interlaced in the fencing so as to provide sufficient screening. The minimum inside dimensions of this structure shall be 12 feet by 12 feet.
 - 2. Dumpsters shall be placed on a concrete pad which shall be a minimum of eight inches in thickness and have an apron and a joint shall separate the apron. Bollards, having a minimum outside diameter of four inches and extending a minimum of 42 inches above and below grade, shall be installed on both sides of the dumpster enclosure opening to prevent damage to the screening wall or fence. A minimum of two such bollards shall be installed across the back wall of the enclosure a minimum of two feet from the back wall and shall be installed in such a manner as to have an expansion joint separating the bollards from the remainder of the slab.
- D. The Zoning Administrator may authorize a departure from the standards of subsections B-C above upon concluding that compliance is impractical or otherwise not feasible.
- E. Maintenance and servicing of dumpster enclosures.
 - 1. Dumpsters and dumpster structures shall be kept clean and maintained in good repair.
 - 2. Dumpster capacity shall be large enough to accommodate the garbage and refuse generated by the property.
 - 3. Dumpsters and other refuse containers shall only be serviced by licensed persons approved by the Village Council.

SECTION 3.32. SMALL SCALE SOLAR ENERGY SYSTEMS

- A. Applicability. This section applies to any system of small-scale solar energy collector systems within the Village. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and a height of less than five (5) feet above the ground. Nothing in this section shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement.
- B. General requirements.
1. Permit Required. No small-scale solar energy collector system shall be installed or operated except in compliance with this section. A zoning permit shall be obtained from the Zoning Administrator prior to the installation of a small-scale solar energy system. All small-scale solar energy systems shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications.
 2. Applications. In addition to all other required application contents as listed in Section 18.02 equipment and unit renderings, elevation drawings, and site plans depicting the location and distances from lot lines and adjacent structures shall be submitted for review by the Zoning Administrator.
 3. Glare and Reflection. The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roads or private roads.
 4. Installation.
 - a. A solar energy collector shall be permanently and safely attached to the ground or structure. Solar energy collectors, and their installation and use, shall comply with building codes and other applicable village and state requirements.
 - b. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Village prior to installation.
 5. Power Lines. On-site power lines between solar panels and inverters shall be placed underground.
 6. Abandonment and Removal. A solar energy collector system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned. Following the abandonment of a solar energy collector system, the following standards are applicable:
 - a. The responsible party may reinstate the system up to six (6) months after the system is declared abandoned if the Village is given substantial evidence of the responsible party's intent to maintain and reinstate the operation of that system.
 - b. The responsible party shall remove all equipment and facilities and restore the lot to its condition prior to the development of the system within one (1) year of abandonment.
- C. Building-Mounted Solar Energy Collectors. These systems may be established as accessory uses to principal uses in all zoning districts subject to the following conditions.

1. Maximum Height. Building-mounted solar energy collectors shall be attached directly to the building and shall not be taller than the peak of the building to which they are attached.
 2. Obstruction. Building-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
- D. Ground-Mounted Solar Energy Collectors. These systems are permitted in all zoning districts subject to the following conditions.
1. Rear and Side Yards. The unit may be located in the rear yard or the side yard and shall be subject to the setbacks for accessory buildings.
 2. Front Yard. The unit may be located in the front yard only if located not less than one hundred fifty (150) feet from the front lot line.
 3. Obstruction. Ground-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
 4. Vegetation. All vegetation underneath solar energy infrastructure shall be properly maintained as to not block access to solar collectors.
 5. Maximum Number.
 - a. Residential uses. There shall be no more than one (1) ground-mounted solar energy collector per principal building on a lot.
 - b. Commercial, and Industrial uses. There shall be no limit to the number of ground-mounted solar energy collectors on a lot.
 6. Maximum Size.
 - a. Residential uses. There shall be no more than one percent (1%) of the lot area, up to one thousand five hundred (1,500) square feet, of collector panels on a ground-mounted solar energy collector system.
 - b. Agricultural, Commercial, and Industrial uses. There shall be no more than ten thousand (10,000) square feet of collector panels on a ground-mounted solar energy collector system.
 7. Maximum Height. The maximum height shall be sixteen (16) feet, measured from the natural grade below the unit to the highest point at full tilt.
 8. Minimum Lot Area. One (1) acre shall be the minimum lot area to establish a ground-mounted solar energy collector system.
 9. Screening. Screening shall be required in cases where a ground-mounted solar energy collector impacts views from adjacent residential properties. Screening methods may include the use of material, colors, textures, screening walls, and landscaping that will blend the unit into the natural setting and existing environment.
 10. Applicants requesting ground-mounted solar energy collectors shall demonstrate the system's projected electricity generation capability, and the system shall not regularly exceed the power consumption demand of the principal and accessory land uses on the lot. However, larger systems may be approved if greater electricity need is demonstrated to power on-site buildings and uses.

SECTION 3.33. ACCESS MANAGEMENT

- A. The standards of this section shall apply to all uses for which site plan review and approval is required according to Chapter 15.
- B. In reviewing a site plan, the Village may:
 - 1. Require service drives;
 - 2. Limit the number of driveways for a lot;
 - 3. Require that parking areas on adjacent lots be connected;
 - 4. Require driveways for adjacent lots be shared;
 - 5. Require driveways on opposite sides of a street be directly aligned or have proper offsets; and
 - 6. Require the closing, relocation, or redesign of a driveway or access point.
- C. Number of Driveways.
 - 1. General Access: Unless otherwise warranted or required in the opinion of the Village, access to any street or for an individual lot, or access to any street from contiguous lots under the same ownership, shall be limited to a single two-way driveway.
 - 2. Additional Driveways: For a lot with frontage on a street of more than three hundred (300) feet, an additional driveway may be allowed for each additional three hundred (300) feet frontage, provided that driveways meet the spacing standards of this section.
- D. Dual Frontage: Where Lots have dual frontage on both a higher and lower classification of roadway (i.e. State Street or Michigan Avenue and another village street) access shall be provided from the lower classification roadway. If the lot has a minimum of three hundred (300) feet of frontage, additional access may be allowed if the access meets the spacing standards of this section.
- E. Shared Driveways. In cases where shared driveways are proposed or required, the shared driveway shall be constructed as nearly as practical to straddle the common property line. A written easement and maintenance agreement, to be approved by the Village, shall be provided and legally recorded with the Oceana County Register of Deeds that allows traffic to travel across one (1) lot to access another, and to access the street.
- F. Service Drives and Parking Lot Connections.
 - 1. Where a proposed parking lot is adjacent to an existing parking lot, there shall be a vehicular connection between the two parking lots where possible, as determined by the Village.
 - 2. Lots may be required to include a rear yard service drive, especially where connection to a second street is available.
 - 3. If a lot with an established commercial use is divided to allow for an additional commercial use, an additional driveway for that use will only be permitted if the driveway spacing requirements of this section are met. The original and the additional commercial use shall have adjoining connected parking lots and may be required to construct a connecting rear yard service drive.

- C. Construction of Service Drives. Service drives shall have a minimum width of twenty four (24) feet, measured from face to face of the curb, with an approach approved by the Village engineer.
1. The geometrics of rear yard or front yard service drive intersections with streets shall be approved by the Village or MDOT, as applicable.
 2. Service drives shall have a minimum of fifty (50) feet of stacking space or throat length for entering and exiting vehicles at the intersection of the service drive and the street.
 3. Parking shall generally be prohibited along service drives. However, one (1) way or two (2) way service drives designed with additional width for parallel parking may be allowed if such traffic studies demonstrate that such parking will not significantly affect their safety or operation. Perpendicular or angled parking along either side of a designated service drive shall be prohibited.
 4. Directional Signs and pavement markings may be required to help promote safe and efficient circulation. The property owner(s) shall be required to maintain all pavement markings and signs. All directional signs and pavement markings shall conform to the standards contained in the current "Michigan Manual of Uniform Traffic Control Devices."
- H. Curb Radii. Driveways shall be designed with at least twenty five (25) feet radii where primarily passenger vehicle traffic is expected.
1. Driveways shall be designed with at least thirty five (35) feet radii where primarily truck vehicle traffic is expected.
 2. Where necessary, a site plan shall illustrate proposed circulation patterns on a site to ensure safe movement of vehicular traffic, trucks, and delivery vehicles.
- I. Acceleration, Deceleration and Bypass Lanes. Acceleration, deceleration, and/or left turn bypass lanes may be required, as determined by the Village or MDOT.

CHAPTER 4. ZONING DISTRICTS AND MAP

SECTION 4.01. ESTABLISHMENT OF DISTRICTS

For the purposes of this Ordinance, the Village of Shelby is divided into the following Zoning Districts:

Residential Districts	R-1	Low Density Residential District
	R-2	Medium Density Residential District
	R-3	Multiple Family Dwelling District
	R-4	Manufactured Home Community District
Commercial Districts	C-1	Central Business District
	C-2	General Business District
	PUD	Planned Unit Development District
	IND	Industrial District

SECTION 4.02 OFFICIAL ZONING MAP

The boundaries of the Zoning Districts enumerated in Section 4.01 are hereby established on the "Official Zoning Map, Village of Shelby" which accompanies this text. This map with all notations, references, and other information shown thereon is hereby adopted by reference as a part of this Ordinance. One (1) copy of the Official Zoning Map shall be maintained and kept up to date by the Village Clerk, accessible to the public, and the final authority as to the current zoning status of all property in the Village.

SECTION 4.03. INTERPRETATION OF DISTRICT BOUNDARIES

If, because of the scale, lack of detail, or other illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of District boundary lines shall be determined by the Zoning Administrator. In arriving at a decision, the Zoning Administrator shall apply the following standards:

- A. The boundaries of Zoning Districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map.
- B. Where District boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be the boundaries.
- C. Unless shown by dimension on the Official Zoning Map, where a District boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
- D. Where District boundaries are indicated as approximately following Village limits, they shall be construed as following the Village limits.

- E. A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall be construed as following that centerline.
- F. If a District boundary is indicated as being parallel to, or an extension of a feature described in this Section, it shall be so construed.

If after consideration of the preceding standards there remains any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, the Zoning Administrator shall refer the matter to the Zoning Board of Appeals for interpretation and a decision pursuant to Chapter 14.

SECTION 4.04. ZONING OF VACATED AREAS

If a street, alley, or other public right-of-way within the Village is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley, or public right-of-way, the lands involved shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this Ordinance.

SECTION 4.05. ZONING CLASSIFICATION OF ANNEXED AREAS

Any area which is annexed to the Village shall be considered to be in the R-1 District. The Village Council shall, promptly after the passage of an ordinance of annexation, request the Village Planning Commission to make a recommendation on the appropriate zoning classification of the annexed area. The Village Planning Commission shall initiate amendment procedures as provided for in the Zoning Enabling Act if it determines that the annexed area should be in a district other than R-1.

SECTION 4.06. SUMMARY TABLE OF LAND USES

The following Table 4-1, Table of Land Uses, summarizes the applicable regulatory standards for land uses governed under this Zoning Ordinance. It is provided for quick reference; however, it should not be substituted for careful reference to the specific language in this Ordinance. In the event of a discrepancy between Table 4-1 below and the text of the Ordinance, the text shall control.

P = Permitted by right SLU = Permitted only by special land use

Table 4-1: Table of Land Uses							
Use	R-1	R-2	R-3	R-4	C-1	C-2	IND
Accessory Dwelling Unit	P	P					
Art studio/craft shops					P	P	P
Assembly, processing, fabrication, or manufacturing facilities 10,000 square feet GFA and greater							SLU
Assembly, processing, fabrication, or manufacturing facilities under 10,000 square feet GFA						SLU	P
Bed and breakfast establishments	SLU	SLU	SLU				
Bulk oil, gasoline, liquid propane gas, and compressed natural gas distribution and storage facilities							SLU
Catering establishments					P	SLU	
Cemeteries	SLU	SLU	SLU				
Child care facilities					SLU	P	
Commercial storage warehouses						SLU	P
Contractor's offices					P	SLU	
Convalescent or nursing homes		SLU	SLU			SLU	
Cottage housing/bungalow courts	SLU	P	P				
Elderly housing		SLU	P				
Farm Market					P		
Financial institutions					P	P	
Fraternal or social club or lodge					P	P	
Home occupations	P	P	P	P			
Hospitals					SLU	SLU	
Hotels/motels					SLU	SLU	
Kennels, commercial						SLU	
Laundromats					P	P	
Live/Work					P	P	
Manufactured home communities				P			
Medical offices					P	P	
Mortuary or funeral homes					SLU	SLU	
Multiple family dwellings		SLU	P				
Open air businesses						SLU	
Parks, playgrounds, or community centers	P	P	P	P			
Permitted uses containing drive-through facilities					SLU	P	
Personal service establishments					P	P	P
Places of public assembly	SLU	SLU	SLU		SLU	SLU	

Table 4-1: Table of Land Uses							
Use	R-1	R-2	R-3	R-4	C-1	C-2	IND
Private schools	SLU	SLU	SLU	SLU		SLU	
Professional service establishments					P	P	P
Professional offices					P	P	P
Public or utility service buildings or yards	SLU	SLU	SLU		SLU	SLU	P
Recreation facilities, indoor					SLU	SLU	
Recreation facilities, outdoor						SLU	
Research, development, and laboratory facilities							P
Residential above retail/office					P	P	
Restaurants					P	P	
Retail establishments 10,000 square feet GFA and greater						SLU	P
Retail establishments under 10,000 square feet GFA					P	P	P
Salvage or junk yards							SLU
Sexually oriented businesses							SLU
Single family dwellings	P	P	P				
State licensed residential facilities (13-20 persons)			SLU				
State licensed residential facilities (1-6 persons)	P	P	P	P			
State licensed residential facilities (7-12 persons)	SLU	SLU	SLU				
Townhouses/Rowhouses	SLU	P	P				
Two-family dwellings		P	P				
Vehicle repair, major						SLU	P
Vehicle repair, minor						SLU	P
Vehicle service stations						SLU	
Vehicle wash establishments						SLU	P
Veterinary clinics						SLU	P
Warehouses							SLU
Wireless communication tower				SLU		SLU	SLU

CHAPTER 5. RESERVED

CHAPTER 6. R-1 LOW DENSITY RESIDENTIAL DISTRICT

SECTION 6.01. PURPOSE AND INTENT

The R-1 Residential zoning district is intended to encourage a relatively low-density residential environment for people of all ages and abilities in the Village of Shelby. This district is generally limited to single-family dwellings, along with compatible supportive recreational, institutional, and educational uses. Neighborhoods should be relatively quiet, well-maintained, and encourage quality development.

SECTION 6.02. PERMITTED AND SPECIAL LAND USES

- A. The following uses shall be permitted by right in the R-1 district:
 - 1. Accessory dwelling units, subject to Section 3.19
 - 2. Home occupations, subject to Section 3.24.
 - 3. Parks, playgrounds, or community centers
 - 4. Single family dwellings
 - 5. State licensed residential facilities (1-6 persons)
- B. The following uses shall only be permitted in the R-1 district with special land use approval:
 - 1. Bed and breakfast establishments
 - 2. Cemeteries
 - 3. Cottage housing/bungalow courts
 - 4. Places of public assembly
 - 5. Private schools
 - 6. Public or utility service buildings, but not including storage yards
 - 7. State licensed residential facilities (7-12 persons)
 - 8. Townhouses/rowhouses

SECTION 6.03. SITE DEVELOPMENT REQUIREMENTS

- A. Where a main structure would infill a single lot, the front yard setback may be an average of neighboring properties as described in Section 3.07 A of this Ordinance, provided the minimum setback remains at least five (5) feet from the street right-of-way.
- B. Parking, landscaping, lighting, and signage shall comply with the Site Development Requirements in Chapter 16 of the Zoning Ordinance.
- C. All permitted and special land uses are subject to the following requirements in Table 6-1, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure.

Table 6-1. R-1 District Requirements	
Dimensional Standard	R-1 District
Minimum Lot Area	9,600 sq. ft. or that of the underlying platted lot, whichever is less
Minimum Lot Width	75 ft or that of the underlying platted lot, whichever is less
Maximum Lot Coverage	40%
Width to Depth Ratio	1:4
Minimum Front Yard Setback	25 ft.
Minimum Side Yard Setback	Residential Uses: 12 ft. Nonresidential Uses: 30 ft.
Minimum Rear Yard Setback	30 ft.
Maximum Building Height	35 ft.
Minimum Ground Floor Area	720 sq. ft.

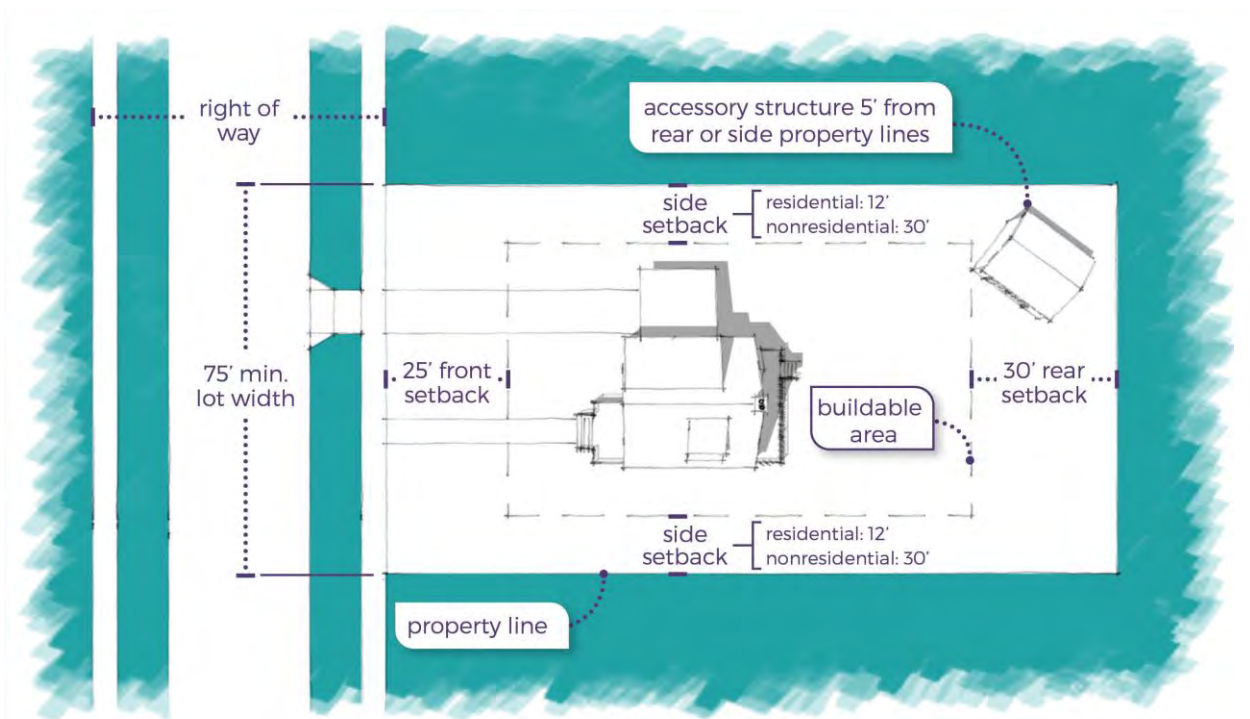


Figure 6.1. R-1 SITE DEVELOPMENT REQUIREMENTS

CHAPTER 7. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 7.01. PURPOSE AND INTENT

The R-2 Residential zoning district is intended to encourage a suitable environment for family living within denser patterns of residential development. The primary uses are single and two-family homes, along with other low-intensity uses that support a neighborhood environment. This district is generally characterized by small lot sizes and supports for a pedestrian friendly environment through features such as sidewalks, street trees, and street lights where appropriate.

SECTION 7.02. PERMITTED AND SPECIAL LAND USES

- A. The following uses shall be permitted by right in the R-2 district:
 - 1. Accessory dwelling unit, subject to Section 3.19
 - 2. Cottage housing/bungalow courts
 - 3. Home occupations, subject to Section 3.24
 - 4. Parks, playgrounds, or community centers
 - 5. Single family dwellings
 - 6. State licensed residential facilities (1-6 persons)
 - 7. Two family dwellings
 - 8. Townhouses/rowhouses
- B. The following uses shall only be permitted in the R-2 district with special land use approval:
 - 1. Bed and breakfast establishments
 - 2. Cemeteries
 - 3. Convalescent or nursing homes
 - 4. Elderly housing
 - 5. Multiple family dwellings
 - 6. Places of public assembly
 - 7. Private schools
 - 8. Public and utility service buildings, but not including storage yards.
 - 9. State licensed residential facilities (7-12 persons).

SECTION 7.03. SITE DEVELOPMENT REQUIREMENTS

- A. Where a main structure would infill a single lot, the front yard setback may be an average of neighboring properties as described in Section 3.07 A of this Ordinance, provided the minimum setback remains at least five (5) feet from the street right-of-way.

- B. Parking, landscaping, lighting, and signage shall comply with the Site Development Requirements in Chapter 16 of the Zoning Ordinance.
- C. All permitted and special land uses are subject to the following requirements in Table 7-1, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure.

Table 7-1. R-2 District Requirements	
Dimensional Standard	R-2 District
Minimum Lot Area	Single and two-family dwellings: 6,250 sq. ft. or that of the underlying platted lot, whichever is less All other uses: 12,000 sq ft or 6 dwelling units per acre, whichever is less
Minimum Lot Width	Single and two-family dwellings: 50 feet or that of the underlying platted lot, whichever is less All other uses: 80 ft
Maximum Lot Coverage	40%
Width to Depth Ratio	1:4
Minimum Front Yard Setback	15 ft.
Minimum Side Yard Setback	Single family dwellings: 16 ft. total, 4 ft. minimum Two-family dwellings: 10 ft. each side All other uses: 25 ft.
Minimum Rear Yard Setback	30 ft.
Maximum Building Height	35 ft.
Minimum Ground Floor Area	Single and two-family dwellings: 720 square feet per dwelling unit For multiple family dwellings: Studio apt.: 400 sq. ft. 1-bedroom apt.: 450 sq. ft. More than 1 bedroom: Add 100 sq. ft. additional for each additional bedroom

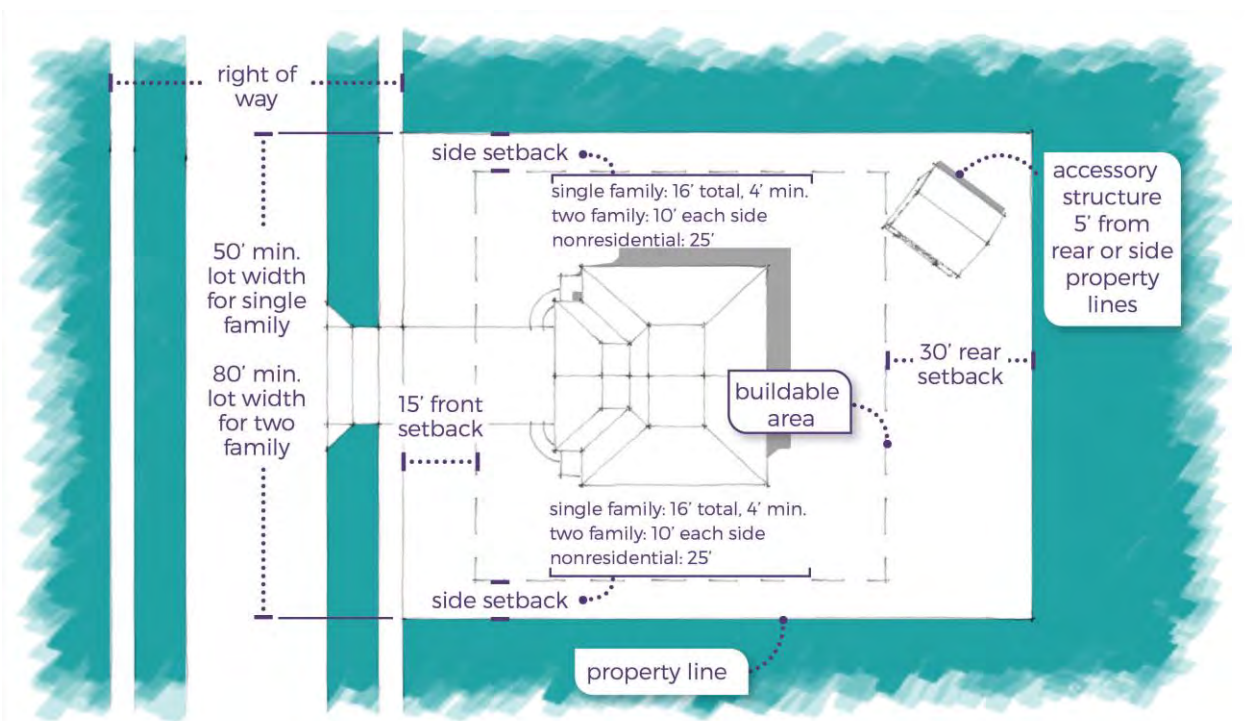


Figure 7.1. R-2 SITE DEVELOPMENT REQUIREMENTS

CHAPTER 8. R-3 MULTIPLE FAMILY DWELLING DISTRICT

SECTION 8.01. PURPOSE AND INTENT

The R-3 Residential zoning district is intended to permit high density residential housing in specific areas of the Village that offer quality, affordable living arrangements. This district primarily supports multiple family housing, along with other uses compatible with a high-density residential environment. Housing in this district should have the same living quality as other residential districts and be compatible with neighboring districts and buildings. Pedestrian-scale features should be incorporated into designs and support multiple modes of transportation.

SECTION 8.02. PERMITTED AND SPECIAL LAND USES

A. The following uses shall be permitted by right in the R-2 district:

1. Cottage Housing/Bungalow Courts
2. Elderly housing
3. Home occupations, subject to Section 3.24
4. Multiple family dwellings
5. Parks, playgrounds, or community centers
6. Single family dwellings
7. State licensed residential facilities (1-6 persons)
8. Townhouses/Rowhouses
9. Two family dwellings

B. The following uses shall only be permitted in the R-3 district with special land use approval:

1. Bed and breakfast establishments
2. Cemeteries
3. Convalescent or nursing homes
4. Places of public assembly.
5. Private schools
6. Public or utility service buildings, not including storage yards.
7. State licensed residential facilities (7-12 and 13-20 persons)

SECTION 8.03. SITE DEVELOPMENT REQUIREMENTS

A. Where a main structure would infill a single lot, the front yard setback may be an average of neighboring properties as described in Section 3.07 A of this Ordinance, provided the minimum setback remains at least five (5) feet from the street right-of-way.

B. Parking, landscaping, lighting, and signage shall comply with the Site Development Requirements in Chapter 16 of the Zoning Ordinance.

- C. All permitted and special land uses are subject to the following requirements in Table 8-1, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure.

Table 8-1. R-3 District Requirements	
Dimensional Standard	R-3 District
Minimum Lot Area	10,000 sq. ft.
Minimum Lot Width	150 ft.
Maximum Lot Coverage	70%
Maximum Width to Depth Ratio	1:4
Maximum Density	10 dwelling units per acre
Minimum Front Yard Setback	10 ft.
Minimum Side Yard Setback	10 ft.
Minimum Rear Yard Setback	40 ft.
Maximum Building Height	35 ft.
Minimum Ground Floor Area	Single and two-family dwellings: 720 square feet per dwelling unit For multiple family dwellings: Studio apt.: 400 sq. ft. 1-bedroom apt.: 450 sq. ft. More than 1 bedroom: Add 100 sq. ft. additional for each additional bedroom

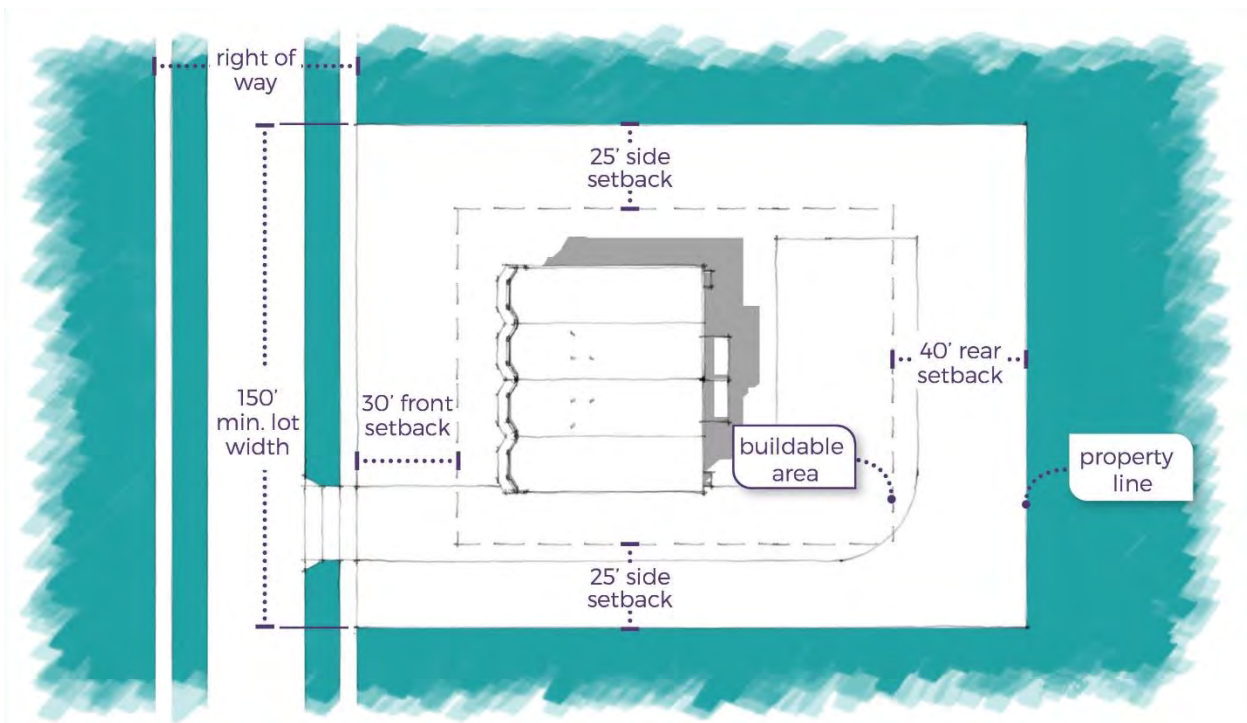


Figure 8.1. R-3 SITE DEVELOPMENT REQUIREMENTS

CHAPTER 9. R-4 MANUFACTURED HOME COMMUNITY DISTRICT

SECTION 9.01. PURPOSE AND INTENT

The purpose of the R-4 Manufactured Home Community District is to allow for the establishment of manufactured home communities and related accessory uses. A manufactured home community shall comply with all applicable procedures and requirements of the Manufactured Home Commission Act, 419 of 1976, as amended, and the Michigan Administrative Code promulgated thereunder.

SECTION 9.02. PERMITTED AND SPECIAL LAND USES

- A. The following uses shall be permitted by right in the R-4 district:
 - 1. Home occupations, subject to Section 3.24
 - 2. Manufactured home communities and their accessory uses
 - 3. Parks, playgrounds, or community centers
 - 4. State licensed residential facilities (1-6 persons)

SECTION 9.03. SITE DEVELOPMENT REQUIREMENTS

- A. All mobile home sites shall be furnished with public water and public sewer connections. Electrical and telephone distribution lines shall be placed underground.
- B. No mobile or manufactured home shall be occupied as a dwelling or residence in the Village except unless it is located in a mobile home park in a mobile home park district.
- C. The site development requirements of the manufactured housing commission, together with any other applicable requirements of the State of Michigan, Act 96 of 1987, as amended, shall be satisfied. No manufactured housing community shall be maintained, operated, or conducted without an annual license from the Michigan Department of Licensing and Regulatory Affairs (LARA) or other agency having jurisdiction. An inspection of construction may be performed at any appropriate time, pursuant to 1987 PA 96, as amended (the Mobile Home Commission Act).

CHAPTER 10. C-1 CENTRAL BUSINESS DISTRICT

SECTION 10.01. PURPOSE AND INTENT

The C-1 Central Business District is intended to support a traditional downtown main-street atmosphere. District uses are intended to be primarily specialty retail uses with complementary, small-scale service businesses and accessory (second-floor) residential uses. The C-1 Central Business District is intended to promote the consolidation of commercial activities in the existing Shelby Village center by providing for a variety of retail, office, restaurant, and entertainment activities. The purpose of this District is to encourage and promote the business use of the first floor of existing structures and to permit residential uses on upper stories. The development and expansion of the town center should serve the needs of the surrounding area. The central business area of the Village of Shelby is viewed as the older, traditional business center of the Community, and is characterized by smaller lot sizes, more intense land uses, mixed land uses, and higher percentages of lot coverage. This area permits the integration of business activity, governmental functions, service, office, and residential uses.

SECTION 10.02. PERMITTED AND SPECIAL LAND USES

A. The following uses shall be permitted by right in the C-1 district:

1. Art studio/craft shops
2. Catering establishments
3. Contractor's offices.
4. Farm markets.
5. Financial institutions
6. Fraternal or social club or lodge
7. Laundromats.
8. Live/work units
9. Medical offices.
10. Personal service establishments
11. Professional service establishments
12. Professional offices
13. Residential above retail/office
14. Restaurants
15. Retail establishments under 10,000 square feet GFA.

B. The following uses shall only be permitted in the C-1 district with special land use approval:

1. Child care centers
2. Hospitals.
3. Hotels/motels.

4. Mortuary or funeral homes.
5. Permitted uses involving drive-through facilities
6. Places of public assembly.
7. Public or utility service buildings or yards.
8. Recreation facilities, indoor

SECTION 10.03. SITE DEVELOPMENT REQUIREMENTS

- A. Parking, landscaping, lighting, and signage shall comply with the Site Development Requirements in Chapter 16 of the Zoning Ordinance.
- B. All permitted and special land uses are subject to the following requirements in Table 10-1, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure.

Table 10-1. C-1 District Requirements	
Dimensional Standard	C-1 District
Minimum Area	None
Minimum Width	None
Minimum Depth	None
Maximum Lot Coverage	100%
Minimum Front Yard Setback	0 ft.
Minimum Side Yard Setback	0 ft.
Minimum Rear Yard Setback	0 ft.
Maximum Building Height	50 ft.

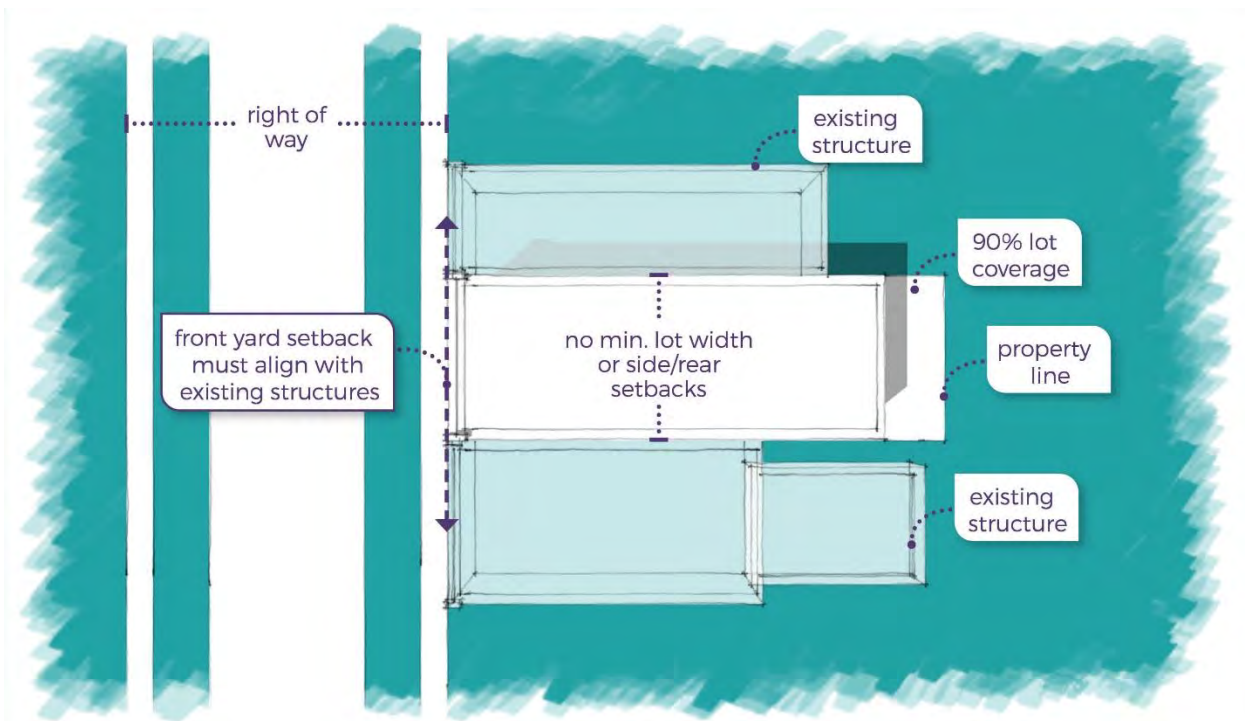


Figure 10.1. C-1 SITE DEVELOPMENT REQUIREMENTS

- C. All proposed development subject to site plan approval shall comply with the following architectural guidelines:
1. All development shall be adequately served by a sidewalk at least five (5) feet in width or as otherwise required by the Village.
 2. Buildings shall possess architectural variety, but enhance the overall cohesive community character. The scale and proportion of existing structures in the area should be considered. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape.
 3. All buildings with flat roofs shall include parapet articulation on the facade(s) of each building facing the street.
 4. No side yards are permitted except that a pedestrian accessway, plaza, outdoor seating, gathering, dining areas, or similar accessory uses that are determined to add to the vibrancy of downtown Shelby may be developed in a side yard, subject to Planning Commission approval during the site plan review process.
 5. Buildings shall adjoin and align with neighboring structures to form a consistent streetwall. If an adjacent structure does not exist, the front setback shall be no more than 15 feet from the street right-of-way line. The front yard, if provided, shall be landscaped in accordance with the provisions of this Chapter and have appropriate amenities (benches, bike racks, etc.) to enhance the street atmosphere.

6. The first floor of commercial buildings facing a road shall be comprised of sixty (60%) minimum of clear glass or a percentage established by the Planning Commission, and at least 40% windows on upper floors.
7. Any side of a building facing a road should be covered with, or constructed of, at least fifty percent (50%) of the following materials:
 - c. Brick.
 - d. Decorative concrete block.
 - e. Cut stone.
 - f. Logs.
 - g. Other materials approved as part of the site plan.
8. No off-street parking or delivery areas shall be permitted in the front yard of the property.
9. Any facade facing the street or rear yard shall have an entrance for the public. Where building frontages exceed 50 feet in width, doors, or entrances with public access shall be provided at intervals averaging no greater than 50 feet apart.
10. Building walls over one hundred (100) feet in length shall be broken up with varying building lines, windows, architectural accents or trees.

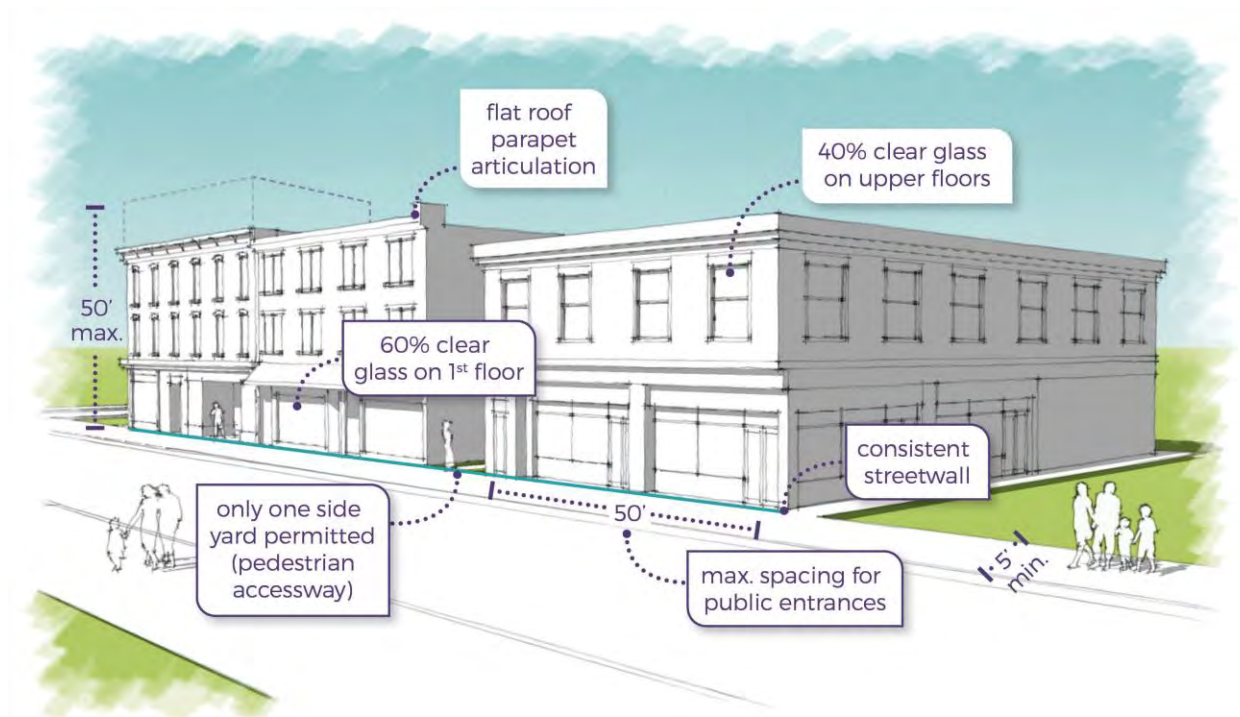


Figure 10.2. C-1 SITE DEVELOPMENT REQUIREMENTS

11. The Planning Commission may modify or waive the requirements of this Section if it finds that a proposed development is consistent with the character of the surrounding properties.

CHAPTER 11. C-2 GENERAL BUSINESS DISTRICT

SECTION 11.01. PURPOSE AND INTENT

The C-2, General Business Commercial District is intended primarily for uses emphasizing community shopping needs for the citizens of the Shelby Community that are of a higher intensity than those found in a traditional downtown. Screening, landscaping, and site design will be strongly considered when sites are developed to ensure they mesh well with adjacent residential uses.

SECTION 11.02. PERMITTED AND SPECIAL LAND USES

A. The following uses shall be permitted by right in the C-2 district:

1. Art studio/craft shops
2. Catering establishments
3. Child care facilities
4. Financial institutions
5. Fraternal or social clubs or lodges
6. Laundromats.
7. Live/work
8. Medical offices
9. Mortuary or funeral homes
10. Personal service establishments
11. Places of public assembly
12. Professional offices
13. Processional service establishments
14. Recreation facilities, indoor or outdoor
15. Residential above retail/office
16. Restaurants
17. Retail establishments under 10,000 square feet GFA
18. Vehicle repair, minor
19. Veterinary clinic

B. The following uses shall only be permitted in the C-2 district with special land use approval:

1. Assembly, processing, fabrication, or manufacturing facilities under 10,000 square feet GFA.
2. Residential above retail/office.
3. Commercial storage warehouses.

4. Contractor's offices.
5. Convalescent or nursing homes.
6. Hospitals.
7. Hotels/motels.
8. Kennels, commercial.
9. Private schools.
10. Open-air businesses.
11. Public or utility service buildings or yards.
12. Permitted uses containing drive-through facilities
13. Retail establishments 10,000 square feet GFA and greater.
14. Vehicle repair, minor or major
15. Vehicle service station.
16. Vehicle wash establishment.
17. Wireless communication tower.

SECTION 11.03. SITE DEVELOPMENT REQUIREMENTS

- A. Parking, landscaping, lighting, and signage shall comply with the Site Development Requirements in Chapter 16 of the Zoning Ordinance.
- B. All permitted and special land uses are subject to the following requirements in Table 11-1, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 11-1. C-2 District Requirements	
Dimensional Standard	C-2 District
Minimum Area	10,000 sq. ft.
Minimum Width	80 ft.
Maximum Lot Coverage	50%
Minimum Front Yard Setback	Properties fronting 2nd St. and 3rd St.: 20 ft. All other properties: 30 ft.
Maximum Front Yard Setback	150 ft.
Minimum Side Yard Setback	One side: 5 ft. Total 2 sides: 20 ft. Adjacent to a Residential District or use lot line: 40 ft.
Minimum Rear Yard Setback	20 ft.
Maximum Building Height	2 ½ stories

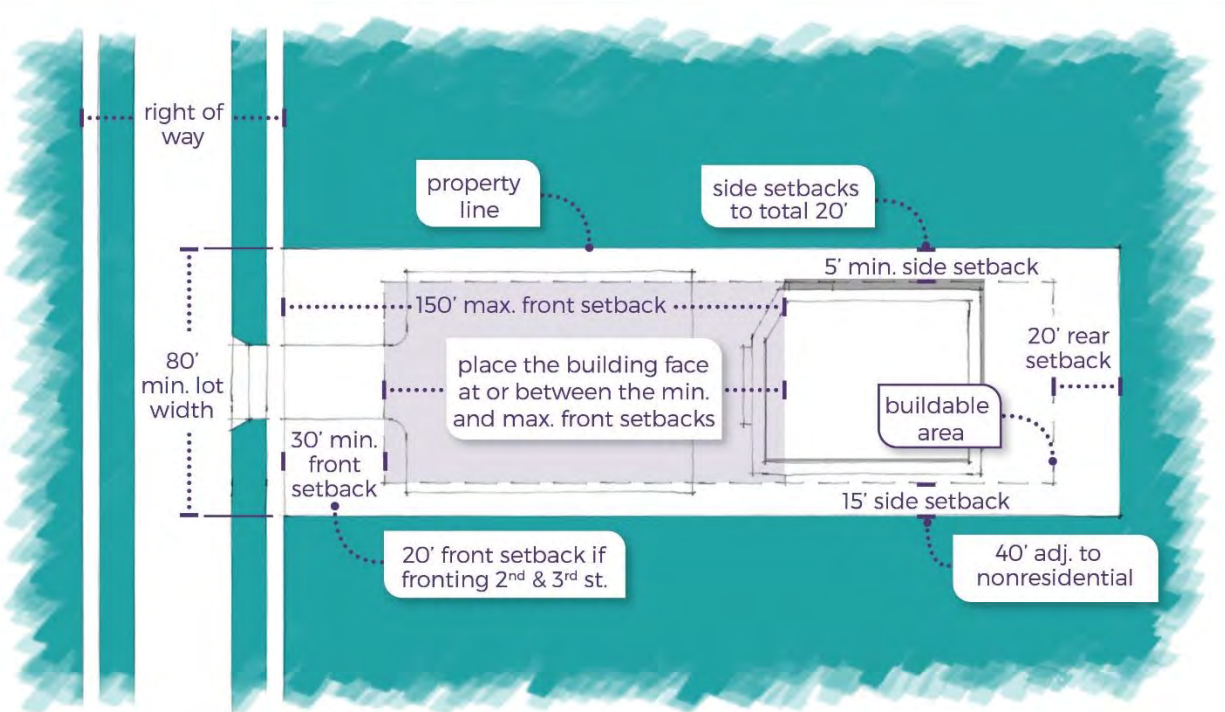


Figure 11.1. C-2 SITE DEVELOPMENT REQUIREMENTS

CHAPTER 12. IND INDUSTRIAL DISTRICT

SECTION 12.01. PURPOSE AND INTENT

The regulations of this District are intended primarily for heavy commercial and general industrial uses. The District is established to encourage operations which manufacture, compound, processing, package, treat and assemble products from previously prepared materials.

SECTION 12.02. PERMITTED AND SPECIAL LAND USES

A. The following uses shall be permitted by right in the IND district:

1. Assembly, processing, fabrication, or manufacturing facilities under 10,000 square feet GFA.
2. Art studios/craft shops
3. Commercial storage warehouses.
4. Contractor's yards.
5. Freight and logistics establishments.
6. Lumberyards.
7. Personal service establishments
8. Printing and publishing establishments.
9. Professional offices
10. Public or utility service buildings or yards.
11. Research, development, and laboratory facilities.
12. Retail establishment
13. Trade or industrial schools.
14. Vehicle repair establishments, minor and major.
15. Vehicle wash establishments.
16. Veterinary clinics.
17. Water supply and treatment facilities.
18. Warehouses.

B. The following uses shall only be permitted in the IND district with special land use approval:

1. Assembly, processing, fabrication, or manufacturing facilities 10,000 square feet GFA and greater.
2. Bulk oil, gasoline, liquid propane gas, and compressed natural gas distribution and storage facilities.
3. Trucking terminals.

4. Salvage or junk yards.
5. Sexually oriented businesses.
6. Wireless Communication Tower.

SECTION 12.03. SITE DEVELOPMENT REQUIREMENTS

- A. Parking, landscaping, lighting, and signage shall comply with the Site Development Requirements in Chapter 16 of the Zoning Ordinance.
- B. All permitted and special land uses are subject to the following requirements in Table 12-1, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure.

Table 12-1. IND District Requirements	
Dimensional Standard	IND District
Minimum Area	20,000 sq. ft.
Minimum Width	150 ft.
Maximum Lot Coverage	75%
Minimum Front Yard Setback	50 ft.
Minimum Side Yard Setback	One side: 25 ft. Total 2 sides: 50 ft. Adjacent to a Residential District or use lot line: 50 ft.
Minimum Rear Yard Setback	Adjacent to a Nonresidential District: 25 ft. Adjacent to a Residential District or use: 50 ft.
Maximum Building Height	50 ft.

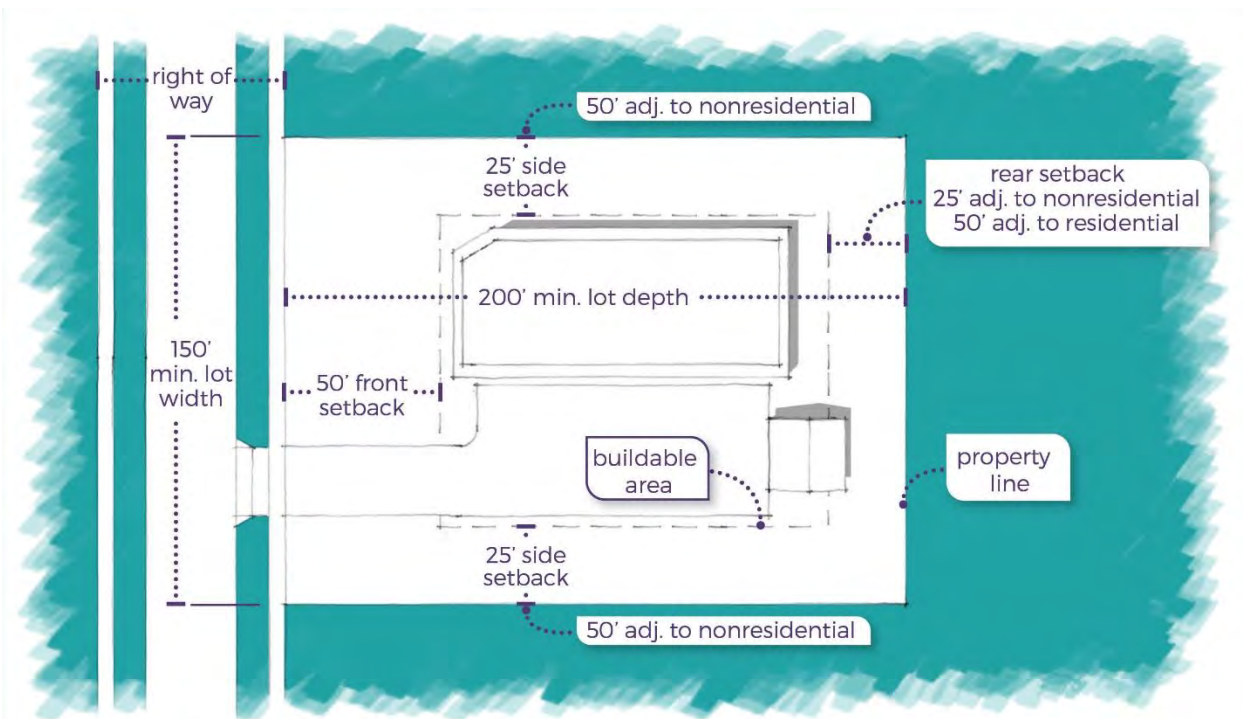


Figure 12.1. IND SITE DEVELOPMENT REQUIREMENTS

CHAPTER 13. PLANNED UNIT DEVELOPMENTS

SECTION 13.01. 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 13.02. 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 13.03. 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 13.04. 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 13.05. 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 13.02.
- 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 13.06. 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 13.07. GENERAL APPLICATION PROCEDURES

The following steps, which are outlined in Sections 13.08-13.11, 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 13.11 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 13.10, 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 13.08. 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 13.02.
- 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 13.09. 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 13.02 and the standards of Section 13.10 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.

G. 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 18.03 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 13.10 are satisfied.

H. Village Council Review and Required Public Hearing.

- 1. 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.
- 2. 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.

3. 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 18.07 of this Ordinance. Conditions attached to the approval shall be incorporated into the ordinance adopting the PUD preliminary plan and PUD rezoning.
4. 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 13.10. 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 13.01 and 13.02.
- 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 13.11. 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 15 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 13.12. 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 13.11.
- 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 13.07, 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 18.07 of this Ordinance.

CHAPTER 14. SPECIAL LAND USES

SECTION 14.01. INTENT

This Ordinance contemplates the development of a variety of land uses within the Village's zoning districts. It is recognized that there are some land uses which, because of their unique characteristics, may only be appropriate in particular locations and under certain circumstances. Therefore, this Chapter provides a set of procedures and standards for these special land uses that require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards in this Chapter are designed to allow reasonable use of land for applicants while maintaining adequate protection of the health, safety, convenience, and general welfare of the Village of Shelby. For purposes of this Ordinance, all special land uses within each zoning district are subject to the conditions and standards of this Chapter.

SECTION 14.02. APPLICATION PROCEDURES

The application for a Special Land Use shall be submitted and processed under the following procedures:

- A. Application. An application shall be submitted to the Zoning Administrator not less than 30 days before the next scheduled Planning Commission meeting. The Zoning Administrator shall review the application for completeness, and when complete, transmit it to the Planning Commission.
- B. Required Information. An application for a special land use shall be accompanied by the following documents and information:
 1. An application form that has been completed in full by the applicant.
 2. The payment of an application fee as established by the Village Council.
 3. A site plan as specified in Chapter 15, Site Plan Review.
 4. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may include, but is not limited to, traffic impact analysis, environmental impact assessments, or reports and/or testimony by officials representing State, County, or Local departments of public safety (police and fire), health, highways or roads, and/or environment.
- C. Public Hearing Required. Upon receipt of the materials required above, the Planning Commission shall hold a public hearing on the application, providing notice of such hearing in accordance with Section 18.03 of this Ordinance.
- D. Planning Commission Review. After the public hearing, the Planning Commission shall review the application for special land use, comments received at the public hearing, the site plan, and any other materials submitted in relation to the application. Within a reasonable time following the receipt of all materials, the Planning Commission shall approve, approve with conditions, or deny the special land use application, and incorporate the basis for the decision into the meeting minutes. In arriving at its decision, the Planning Commission shall

refer to and be guided by those standards set forth in this Chapter and any other standards in this Ordinance applicable to the proposed special land use.

- E. Issuance of a Special Land Use Permit. A special land use permit shall be issued by the Zoning Administrator upon the approval of the special land use by the Planning Commission. The special land use permit shall list all the conditions of approval stipulated by the Planning Commission. The Zoning Administrator shall forward copies of the special land use permit to the applicant and to the Village Clerk.
- F. Performance Guarantee. In authorizing a special land use permit, the Planning Commission may require a performance guarantee pursuant to Section 18.07 of this Ordinance.
- G. Appeals. No decision or condition related to the special land use application shall be taken to the Zoning Board of Appeals.
- H. Amendments. Amendments to special land use permits shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a special land use may be made to an existing special land use permit with the approval of the Zoning Administrator.
- I. Transfers. The special land use permit, with any and all associated benefits, conditions, and required security, may be transferred to a new owner upon the sale or transfer of the property in question. The original owner, upon transferring the special land use permit, shall advise the Zoning Administrator of said transfer in order to ensure the continued validity of the permit, inform the new owner of the land use permitted, and to ensure compliance with the terms and conditions of the approved permit.
- J. Re-Submission. No petition for special land use approval which has been disapproved may be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Zoning Administrator after learning of new and significant facts or conditions that may result in favorable action upon resubmission.
- K. Construction. A special land use approved pursuant to this Chapter shall either be under substantial construction, or operations exercising the permit shall have commenced, within one year after the date of approval.
- L. Expiration. A special land use permit shall run with the land and shall be valid for as long as the approved use continues in accordance with all terms and conditions of the permit. The special land use permit will expire on the occurrence of one or more of the following conditions:
 - 1. If replaced or superseded by a subsequent permitted use or special land use.
 - 2. If the applicant or current owner of the property requests that the special land use permit be rescinded.
 - 3. If the special use is considered abandoned pursuant to Section 14.02 (M).
 - 4. If a building permit has not been obtained or if on-site development has not commenced within one year of approval of the special land use.
- M. Abandonment. Any permitted special land use shall be considered abandoned, and such use shall not be resumed thereafter, if any of the following conditions apply:

1. The owner declares or otherwise makes evident his/her intent to discontinue such use.
 2. When the use has been replaced by a different use.
 3. The cessation of the permitted special land use for a period of one year or more.
- N. Violations. Any violation of the terms, conditions, or limitations of a special land use permit shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any special land use permit after giving notice to the permit holder specifying the alleged violation(s) and holding a public hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the special land use permit exists. The permit holder shall be given a reasonable opportunity to correct the violation(s).

SECTION 14.03. SPECIAL LAND USE REVIEW STANDARDS

- A. In addition to standards for specific special land uses contained in Section 14.04 below, the Planning Commission must find that the following general standards are met in order to approve a special land use:
1. The proposed special land use shall be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed.
 2. The proposed special land use shall not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, lighting, noise, smoke, fumes, glare, or odors.
 3. The proposed special land use shall be generally consistent with the Village of Shelby Master Plan.
 4. The proposed special land use shall not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
 5. The proposed special land use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
 6. The proposed special land use shall ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications that result in maximum harmony with adjacent areas.
- B. In approving a special land use, the Planning Commission may require additional conditions and safeguards. Failure to comply with such conditions may result in the revocation of the special land use approval, pursuant to Section 14.02 (N). Conditions imposed on a special land use shall be designed to:
1. Meet the intent and purpose of the Zoning Ordinance;

2. Relate to the standards established in the Ordinance for the land use or activity under consideration with the subject application;
3. Ensure compliance with those standards;
4. Protect the general welfare;
5. Protect individual property rights; and
6. Ensure that the intent and objectives of this Ordinance will be observed.

SECTION 14.04. SPECIFIC STANDARDS FOR SPECIAL LAND USES

The specific and detailed standards of this Section are requirements that must be met by those uses listed in addition to the general standards of Section 14.03(A) and all other requirements of this Ordinance. In instances where a land use is designated in this Ordinance as special land use, such use shall also be subject to the specific requirements outlined below:

Section 14.04.01. Assembly, Processing, Fabrication, or Manufacturing Facilities Under 10,000 Square Feet GFA

- A. Noise generated on-site from any source shall not exceed seventy (70) decibels measured at any property line.
- B. The applicant shall disclose any hazardous, flammable, or corrosive materials proposed to be stored, used, or handled on the site. Use and handling shall be conducted in accordance with applicable state and federal requirements.
- C. Federal, state, and local agency requirements for storage, spill prevention, record keeping, emergency response, transport, and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state, county, and Village permits and approvals.
- D. Any storage facilities shall provide adequate security and signage to notify the public of any hazardous materials and to prevent trespass.
- E. Vehicles and equipment that are actively used as an integrated component of the establishment may be temporarily parked on the site from time to time, provided such parking is located in the side or rear yard and screened from public view by a fence, wall, or landscape materials approved by the Planning Commission. No portion of the parking area shall be located within fifty (50) feet of any residential district or use.
- F. The Planning Commission reserves the right to require buffering, screening, setbacks, and other elements that are greater than those otherwise required by this Ordinance in keeping with the spirit and intent of this Ordinance to protect the public health, safety, and welfare.

Section 14.04.02. Reserved

Section 14.04.03. Bed and Breakfast Establishments

- A. The establishment shall be serviced by approved public or private water and sanitary sewer services.
- B. The establishment shall be located on a property with direct access to a public road.
- C. These uses shall only be established in detached single-family dwellings which shall be the principal residence of the operator.

- D. Specific spaces shall be designated for guest parking and shall satisfy the requirements of Section 16.02. Parking areas shall be located to minimize negative impacts on adjacent properties.
- E. The lot on which the establishment is located shall meet the minimum lot size requirements of the district.
- F. The total number of guest rooms in the establishment shall not exceed seven (7), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed a total of ten (10) guest rooms.
- G. Exterior refuse storage facilities beyond what might normally be expected for a detached single-family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.
- H. One (1) sign shall be allowed not exceeding sixteen (16) square feet in area or four (4) feet in height. If illuminated, the illumination shall only be of an indirect nature; internally lighted signs are not permitted. The permitted sign shall be set back at least ten (10) feet from the front lot line and at least fifteen (15) feet from any side or rear lot line.
- I. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses.
- J. Meals may be served only to the operator's family, employees, and overnight guests.

Section 14.04.04. Bulk Oil, Gasoline, Liquid Propane Gas, and Compressed Natural Gas Distribution And Storage Facilities.

- A. The minimum lot size shall be ten (10) acres for bulk oil and gasoline. The minimum lot size for liquid propane or compressed gas shall be one (1) acre.
- B. The lot shall be located so that at least one (1) side abuts a primary road, as designated by the Oceana County Road Commission, or State trunk line and all access shall be from that road.
- C. No storage shall take place closer than seventy-five (75) feet from any property line, or five hundred (500) feet from any Residential District, or a greater distance if required by applicable State or Federal regulations.
- D. Accessory buildings, if any, shall be approved by the Planning Commission in connection with the Special Land Use approval.
- E. Fencing, lighting, security, and other appropriate conditions may be imposed which are more stringent than, but not inconsistent with, Federal or State requirements.
- F. Outdoor storage of empty tanks for sale or lease to the public shall be permitted only on the same premises and not within any required setback area.
- G. The site shall be designed to permit easy access by emergency vehicles.
- H. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- I. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures will not cause the contamination of any groundwater source.
- J. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport, and disposal of hazardous substances and polluting

materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals.

- K. Storage facilities shall provide adequate security and signage to notify the public of the hazardous materials and to prevent trespass.

Section 14.04.05. Reserved

Section 14.04.06. Reserved

Section 14.04.07. Cemeteries

- A. The site shall have a minimum area of five (5) acres and a minimum frontage of two hundred (200) feet.
- B. The cemetery shall be located on a property with direct access to a public road.
- C. Buildings, including buildings for storage of equipment, shall be set back two hundred (200) feet from an existing residential district.
- D. Drives and parking areas shall be at least fifty (50) feet from any adjacent property line.

Section 14.04.08. Commercial Storage Warehouses

- A. The applicant shall submit estimates regarding the amount and type of truck traffic that can reasonably be expected to enter or leave the site on a daily and weekly basis.
- B. If any hazardous materials are to be stored on the site or used in any manufacturing process, a detailed listing of each substance and the approximate quantity to be located on-site shall be submitted. A detailed plan of substance storage, hazard control and prevention, and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.
- C. The Planning Commission may require additional landscaping beyond the requirements of this Ordinance to help screen the building or any outdoor storage area.
- D. The outdoor storage or display of goods or materials shall be prohibited in the required front yard. Goods or materials stored in the side or rear yard shall be screened from the view from the street or abutting properties.
- E. If the commercial storage warehouse is a self-storage facility, the following standards shall apply:
 - 1. The use shall be developed on lots of at least one (1) acre, but not more than five (5) acres in size.
 - 2. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
 - 3. A six (6) foot fence of material acceptable to the Planning Commission may be required to enclose the area occupied by the use. If the use is adjacent to a residential zone, additional landscaping may be required by the Planning Commission.
 - 4. The front yard, up to the fence if required, shall be landscaped in accordance with Section 16.01.
 - 5. Outdoor storage of boats and recreational vehicles is permitted provided the storage area is properly screened in accordance with the provisions of Section 16.01.

6. Minimum side and rear yards as specified for the District shall be maintained. No storage buildings are permitted within a required setback.
7. There shall be a minimum of thirty-five (35) feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, the building separation need only be twenty-five (25) feet.
8. Traffic direction and parking shall be designated by signs or painting.
9. The storage of hazardous or toxic materials in self-storage facilities are prohibited.
10. The lot area used for parking and access shall be provided with a paved surface and shall be drained to dispose of all surface water.
11. One parking space shall be required for every storage unit (adjacent to or in front of each unit) plus 1 for each employee.

Section 14.04.09. Contractor's Offices

- A. Any outdoor storage area shall conform to the yard, setback, and height standards of the zoning district in which it is located.
- B. Storage or operation of machinery, equipment, motor vehicles, trailers, and stockpiled materials shall not be located in the front yard unless there exists natural vegetation or a sufficient setback that would effectively screen such areas from view. The Planning Commission may require permanent landscaping or fencing to screen any aspect of the establishment from adjacent rights of way or neighboring properties.
- C. The lot area used for parking and the display or storage areas shall be provided with a permanent, paved surface, and shall be graded and drained to dispose of all surface water.
- D. Cranes, booms, or other extensions on equipment, trucks, or other vehicles parked on-site shall be stored in the lowest possible configuration.
- E. There shall be no off-site discharge of stormwater except to an approved drainage system in accord with the Village's engineering requirements.
- F. Noise generated on-site from any source shall not exceed seventy (70) decibels measured at any property line.
- G. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
- H. The processing of raw materials is prohibited.

Section 14.04.10. Convalescent or Nursing Homes

- A. The minimum lot size shall be 1 acre.
- B. The use shall be established and maintained in accordance with all applicable local, state, and federal laws.
- C. Walkways shall be provided from the main building entrances to the sidewalk and within the site as appropriate.
- D. If the use is operating as a nursing home, under the provisions of Article 17 of Michigan Public Act 368 of 1978, the nursing home shall maintain all valid state and local licenses at all times as a condition of special use approval.

- E. A nursing care facility, as defined herein, shall not be located within fifteen hundred (1,500) feet of any other nursing care facility.

Section 14.04.11. Cottage Housing/Bungalow Courts

- A. Buildings shall be oriented such that primary building entrances face the street. Buildings shall be sited such that they are compatible with the appearance, size, and scale of the neighborhood in which they are proposed.
- B. The Planning Commission may authorize a reduction in the front yard setback that would allow for a walkable and pedestrian-scaled development. Where possible, developments shall form a cohesive, walkable development with a consistent streetscape that is well-integrated into the surrounding neighborhood to the greatest extent practicable. Where there is not an adjacent structure does not exist, the front setback shall be no more than 15 feet from the street right-of-way.
- C. Overall unit density shall not exceed the density of the zoning district in which it is proposed.
- D. Except for on-street parking, no parking lots or delivery areas shall be permitted in the front yard of the property.
- E. All development shall be adequately served by a sidewalk at least five (5) feet in width or as otherwise required by the Village.
- F. Detached accessory structures such as garages or carports shall be behind the principal building.

Section 14.04.12. Elderly Housing

- A. Parking shall be provided at the rate of one (1) space per unit. Should units revert to general occupancy, then two (2) parking spaces per unit shall be provided.
- B. The minimum lot size shall be one (1) acre with a minimum of two thousand, four hundred (2,400) square feet of lot area per dwelling unit.
- C. All units in the building shall have a minimum of four hundred and fifty (450) square feet of floor area per unit.
- D. A covered drop-off and pick-up area shall be provided on-site in close proximity to the main entrance.
- E. Walkways shall be provided from the main building entrances to the sidewalk, as linkages to adjacent developments (as appropriate) and along the adjacent public or private street(s).
- F. Maximum height shall not exceed three (3) stories or fifty (50) feet.

Section 14.04.13. Reserved

Section 14.04.14. Hospitals

- A. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
- B. Any hazardous materials proposed to be stored, used, or handled on-site shall be disclosed by the applicant and all such storage, use, and handling shall be conducted in accordance with applicable state or federal requirements.

- C. Maximum building height may exceed thirty-five (35) feet or two and one-half (2 ½) stories in height provided a minimum yard equal to the height of the building shall be provided on all sides of the development.

Section 14.04.15. Hotels/Motels

- A. If located outside the C-1 District, parking areas shall have a front yard setback of fifty (50) feet and side and rear yard setbacks of ten (10) feet, except that uses located on waterfront lots shall maintain a rear yard setback of at least twenty (20) feet.
- B. Outside of the C-1 District, access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
- C. Hotels/motels may contain accessory uses such as places of public assembly, restaurants, and similar uses. In these cases, the standards for those specific special land uses shall also apply.

Section 14.04.16. Reserved

Section 14.04.17. Kennels, Commercial

- A. The minimum lot size shall be two (2) acres.
- B. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred fifty (150) feet to any adjacent occupied dwelling or any adjacent building used by the public.
- C. All principal use activities, other than outdoor dog run areas, shall be conducted within a totally enclosed main building, and shall be escape-proof to the extent possible.

Section 14.04.18. Reserved

Section 14.04.19. Medical Offices

- A. Any dumpsters used by a medical office shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines. Any disposal of bio-hazardous waste shall be in conformance with state and local requirements.
- B. Where a parking area abuts an existing residential use, the parking area must be screened using appropriate and effective screening methods as determined by the Planning Commission.
- C. The applicant must provide an interior floor plan to demonstrate the proposed layout of the medical office.

Section 14.04.20. Mortuary or Funeral Homes

- A. The minimum lot area shall be eighty thousand (80,000) square feet with a minimum width of two hundred (200) feet.
- B. A well-designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
- C. A caretaker's residence may be provided within the main building.
- D. The proposed site shall front upon a paved public street. All ingress and egress shall be from this thoroughfare.

Section 14.04.21. Multiple Family Dwellings

- A. Scaled elevation drawings depicting architectural features shall be provided. In an area of predominately single-family homes, a multi-family dwelling shall be designed to look like a one-unit dwelling and shall include architectural details found on the majority of dwellings in the neighborhood so that the multi-family dwelling is consistent with the aesthetic character of existing buildings.
- B. A garage serving a multi-family dwelling shall be either (1) recessed, or (2) placed to the rear of the dwelling with side or rear entry.
- C. A minimum separation distance of fifteen (15) feet shall be provided between buildings located on the same parcel if they are not attached by a common wall.

Section 14.04.22. Reserved

Section 14.04.23. Open Air Businesses

- A. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
- B. All open air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
- C. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained to dispose of all surface water.
- D. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
- E. All lighting shall be shielded from adjacent residential areas.
- F. No display area shall be located within twenty (20) feet of a public road right-of-way line.
- G. Any materials or products stored outside and not for sale shall be completely enclosed by a decorative fence, wall, or landscaped screen approved by the Planning Commission as part of the special land use approval. Such fence, wall, or screen shall be continuously maintained in good condition.
- H. The lighting of outdoor display areas shall be shielded to deflect light away from any residential use or residential zoning district and shall not be placed in a manner that interferes with the vision of drivers on adjoining streets.
- I. The open air business area shall be paved, or mechanisms to prevent the creation of dust shall be implemented. The site plan shall include measures satisfactory to the planning commission to contain blowing dust, trash, and debris on the site.

Section 14.04.24. Reserved

Section 14.04.25. Reserved

Section 14.04.26. Permitted Uses Involving Drive-Through Facilities

- A. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way nor does it interfere with the internal circulation of vehicles. A minimum of four (4) stacking spaces for each drive-through station shall be provided.

- B. The applicant shall demonstrate to the satisfaction of the planning commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking, or pedestrian areas on site.
- C. Any commercial establishment with a drive-through facility that adjoins a property zoned or used for residential purposes shall be effectively screened from view from such property.
- D. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
- E. Outdoor speakers for the drive-through establishment shall be located in a way that minimizes sound transmission toward adjacent property and results in sound levels of less than seventy (70) decibels at any property line.

Section 14.04.27. Reserved

Section 14.04.28. Places of Public Assembly

- A. The Planning Commission may impose a maximum number of permitted vehicles, a minimum parking setback from the road right-of-way, and require appropriate screening, fencing, or other landscaping to ensure vehicles are arranged in a safe manner, consistent with neighboring lands and uses.
- B. The Planning Commission may require the completion of a traffic impact study for a place of public assembly.

Section 14.04.29. Private Schools

- A. All required state and local licenses, charters, permits, and similar approvals shall be issued prior to occupancy for any educational purposes and shall be maintained in good standing.
- B. All outdoor play areas shall be located in the rear or side yards only and shall be enclosed with a durable fence six (6) feet in height, or four (4) feet in height if adjoining a right-of-way. Provided, however, the Planning Commission may permit chain link or wrought iron fences up to six (6) feet in height adjoining a right-of-way upon a finding that such fences are necessary for the safety of pupils of the facility.
- C. The Planning Commission may establish standards to limit routine noise generated by an educational facility to no more than seventy (70) decibels at the property line, taking into account the nature of the facility, the surrounding uses, zoning, and the probable frequency of objectionable noise levels that may be generated by the use.
- D. Off-street parking shall be arranged so the area for bus loading and unloading of students, together with areas for pick-up and drop-off of students, will not be in the path of vehicular traffic.
- E. Sidewalks shall be required connecting the off-street parking area to the main entrance of the school, and to the required sidewalk along the adjacent road right-of-way line.
- F. An educational facility with a place of public assembly shall comply with the special land use standards for places of public assembly set forth in Subsection 14.04.28.
- G. Public schools under the jurisdiction of the Michigan superintendent of public instruction are not subject to the requirements of this ordinance in accordance with the Revised School Code, MCL 380.1263(3).

Section 14.04.30. Public or Utility Service Buildings or Yards

- A. Sight-obscuring fencing must be installed outside the storage area.
- B. No part of the fence shall extend toward a road beyond the front wall of the main building. The exterior of the fenced-in area shall be screened with grass and trees and/or shrubs to minimize the appearance of the installation.
- C. Nothing being stored can be stacked higher than the fence or outside the fenced area unless specifically authorized by the Planning Commission.
- D. Items must be stored in an orderly fashion so the surrounding neighborhood shall not be negatively impacted.
- E. All storage areas shall contain drive aisles that shall be maintained free of obstructions to ensure access for emergency services.

Section 14.04.31. Reserved

Section 14.04.32. Recreation Facilities, Indoor

- A. Main buildings shall be set back a minimum of one hundred (100) feet from any Residential District or use.
- B. For uses exceeding a seating capacity of two hundred and fifty (250) persons, a traffic impact study may, at the Planning Commission's discretion, be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
- C. The planning commission may require that any or all of the property of a club facility be fenced to contain any debris or materials used or discarded on-site and/or to prevent unauthorized access to the grounds.
- D. Such facilities shall receive and maintain, at all times, all required federal, state, county, and local licenses and permits.

Section 14.04.33. Recreation Facilities, Outdoor

- A. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards, or lenses to meet the requirements of Section 3.12(D).
- B. Such facilities that include paintball, archery, and/or shooting ranges shall employ effective physical barriers and isolation distances to assure that no projectile shall carry, or be perceptible, beyond the property limit.
- C. The planning commission may require that any or all of the property of a club facility be fenced to contain any debris or materials used or discarded on-site and/or to prevent unauthorized access to the grounds.
- D. Such facilities shall receive and maintain, at all times, all required federal, state, county, and local licenses and permits.

Section 14.04.34. Reserved**Section 14.04.35. Retail Establishments 10,000 Square Feet GFA and Greater**

- A. Public access to the site shall be located at least one hundred (100) feet from any public or private street intersection and not less than fifty (50) feet from the nearest part of any other driveway, as measured from the nearest right-of-way line to the nearest edge of the access.
- B. Any main building shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
- C. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
- D. No mechanical rooms or loading area shall be located nearer than fifty (50) feet to any Residential District or use.

Section 14.04.36. Reserved**Section 14.04.37. Salvage or Junk Yards**

- A. The minimum lot size shall be five (5) acres.
- B. Applications shall require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
- C. The site shall be provided with suitable access to a paved primary street to ensure safe, direct transport of salvage to and from the site.
- D. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or use property line.
- E. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Any fence or wall shall be continuously maintained in good condition and shall contain only incidental signs.
- F. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
- G. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
- H. A management office shall be provided on-site. A residence may be permitted for security personnel or on-site operator.
- I. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
- J. All portions of the storage area shall be accessible to emergency vehicles.

- K. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
- L. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil, and other similar substances shall be removed by a licensed disposal company or be stored in a manner that prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
- M. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
- N. All fences shall be set back a minimum of fifty (50) feet from any Residential District or use property line.
- O. All salvage activities shall take place within an enclosed building.
- P. To protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to between the hours of 8:00 a.m. and 6:00 p.m.
- Q. The Planning Commission may impose other conditions, such as greenbelts, landscaping, and other items, which have a reasonable relationship to the health, safety, and general welfare of the Community. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above

Section 14.04.38. Sexually Oriented Businesses

- A. In the development and application of this subsection, it is recognized that there are some uses that, because of their very nature, have serious objectionable operational characteristics, particularly when several are concentrated in certain areas, or when located in proximity to a Residential district or certain sensitive land uses, thereby having a detrimental effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood in the Village. The regulations of this subsection are intended to prevent a concentration of these uses within any one area, and to prevent deterioration or blighting of a nearby residential or other neighborhood. These regulations do not legitimize activities that are prohibited in other sections of the Zoning Ordinance.
- B. Sexually oriented businesses shall comply with the following requirements:
 - 1. The sexually oriented business shall not be located within a one thousand (1,000) foot radius of any other sexually oriented business or be located on a lot or parcel within five hundred (500) feet of a public park, school, child care facility, or place of worship, measured from the lot lines of the lots or parcels containing each use.
 - 2. No sexually oriented business shall be located within five hundred (500) feet of any Residential District.
 - 3. Any sign or signs proposed for a sexually oriented business must comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
 - 4. Signs must be posted on both the exterior and interior walls of the entrances, in a location that is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that:

- a. "Persons under the age of 18 years are not permitted to enter the premises." and,
 - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
5. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
 6. All off-street parking areas shall be illuminated from at least ninety (90) minutes prior to sunset to at least sixty (60) minutes after closing.
 7. No sexually oriented business shall be open for business prior to 10:00 a.m., nor after 10:00 p.m. However, employees or other agents, or contractors of the business may be on the premises at other hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.
 8. All persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan, or have other similar qualifications that must be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the Village, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
 9. Establishments subject to the subsection shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission, as provided by this Ordinance.

Section 14.04.39. State Licensed Residential Facilities (7-12 Persons)

- A. All required state and local licensing shall be maintained at all times.
- B. All outdoor areas used for care and play shall be located in the rear or side yard only, and shall have appropriate fencing for the safety of the children. Such fence shall consist of a six-foot-high opaque fence along the area adjoining another residence, and a four-foot to six-foot-high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
- C. Such facilities shall be located at least fifteen hundred (1,500) feet from any one of the following:
 1. A licensed or pre-existing operating group or commercial day-care home.
 2. An adult foster care facility.
 3. A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people.
 4. A community correction center resident home halfway house or similar facility under the jurisdiction of the department of corrections.
- D. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood. In determining whether the use would be consistent, the Planning Commission may consider traffic volumes, adequacy of parking or drop-off sites,

the presence of other group care facilities in the area, or other similar factors that could impact the neighborhood.

- E. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 p.m. and 6:00 a.m.

Section 14.04.40. Reserved

Section 14.04.41. Trucking Terminals

- A. The lot shall have frontage on a paved public road.
- B. Except for visitor parking, all vehicle parking and storage, and all materials storage, shall be within a fenced area.
- C. If any hazardous materials are to be stored on the site, a detailed listing of each substance and the approximate quantity to be located on-site shall be submitted. A detailed plan of substance storage, hazard control and prevention, and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.
- D. If the Planning Commission determines that the use will create discernable noise, dust, vibration, or other effects beyond any property line, a detailed statement shall be provided that addresses each concern and it will be minimized to the satisfaction of the Planning Commission.
- E. The Planning Commission may require a traffic study that addresses the amount and type of truck traffic that can reasonably be expected to enter or leave the site on a daily and weekly basis, and the impact of such traffic on the local street network.

Section 14.04.42. Townhouses/Rowhouses

- A. Buildings shall be oriented such that primary building entrances face the street. Buildings shall be sited such that they are compatible with the appearance, size, and scale of the neighborhood in which they are proposed.
- B. The Planning Commission may authorize a reduction in the front yard setback that would allow for a walkable and pedestrian-scaled development. Where possible, buildings shall align with neighboring structures to form a consistent streetscape and pedestrian environment. Where there is not an adjacent structure does not exist, the front setback shall be no more than 15 feet from the street right-of-way.
- C. Except for on-street parking, no parking lots or delivery areas shall be permitted in the front yard of the property.
- D. All development shall be adequately served by a sidewalk at least five (5) feet in width or as otherwise required by the Village.
- E. Detached accessory structures such as garages or carports shall be behind the principal building.

Section 14.04.43. Reserved

Section 14.04.44. Vehicle Repair, Major

- A. No buildings associated with a vehicle service and repair facility shall be erected within fifty (50) feet of any residential zoning district or use.
- B. All equipment including hydraulic hoists, pits, and lubrication and repair facilities shall be entirely enclosed within a building.

- C. All repair work and maintenance activities shall be conducted completely within an enclosed building.
- D. The entire lot used for vehicular activities, excluding the area occupied by a building, shall be hard-surfaced with a concrete or bituminous surface. All areas not paved or occupied by buildings or structures shall be landscaped.
- E. Not more than four (4) dismantled, wrecked, or inoperable vehicles of any kind shall be parked or stored where visible from any adjoining property or right-of-way. Regardless of any screening, no dismantled, wrecked, or inoperable vehicle or vehicle parts may be stored outdoors for longer than ninety (90) days.
- F. The Planning Commission may require an opaque fence or wall up to six (6) feet in height and/or an evergreen landscape buffer not less than six (6) feet in height at the time of planting to screen any vehicles from neighboring uses or adjacent rights-of-way.
- G. Any wrecked vehicles stored outside shall be stored within or upon containment equipment intended to capture any fluids which may leak from the motor vehicles.
- H. The premises shall not be used for the sale or rental of vehicles unless approved for such use as part of the special land use review.

Section 14.04.45. Vehicle Service Station

- A. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authorities.
- B. Curb cuts for ingress and egress to a vehicle service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto.
- C. All buildings, pump islands, canopies, and other facilities shall be located in conformance with the yard and setback requirements of the zoning district in which it is located.
- D. Where adjoining a residential zoning district or use, a solid fence or wall six (6) feet in height shall be erected along the common lot line. Such fence or wall shall be continuously maintained in good condition.
- E. Dismantled, wrecked, or immobile vehicles shall not be permitted to be stored on site. Outdoor servicing of vehicles shall not be permitted.
- F. Any hazardous materials proposed to be stored, used, or handled on-site shall be disclosed by the applicant, and all such storage, use, and handling shall be conducted in accordance with any applicable State or Federal requirements.
- G. In the event that the use of the property for sales of gasoline has been abandoned or terminated for more than one (1) year, all underground gasoline storage tanks shall be removed from the premises. The Village may require a performance guarantee at the time of special land use approval to ensure their removal.

Section 14.04.46. Vehicle Wash Establishment

- A. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking, or pedestrian areas on site. Stacking shall be planned to minimize conflicts with entering and exiting traffic, pedestrians, and parking areas.

- B. All washing activities shall be carried out within a building, however, drying and waxing activities associated with manual and coin-operated automobile washes may occur outdoors.
- C. Vacuum equipment shall be considered an accessory structure and shall meet accessory structure setback requirements.
- D. Noise generated on-site from any source shall not exceed seventy (70) decibels measured at any property line, unless more stringent standards apply.
- E. Where adjoining a residential zoning district or use, a solid fence or wall six (6) feet in height shall be erected along the common lot line. Such fence or wall shall be continuously maintained in good condition.
- F. Adequate drainage shall be provided, to prevent flooding, freezing of runoff, and environmental damage.

Section 14.04.47. Reserved

Section 14.04.48. Wireless Communication Towers

- A. Site Plan Application. A site plan application shall include the following information that will be used by the Planning Commission to review the tower application:
 - 1. Elements required for site plan approval pursuant to Chapter 15.
 - 2. A written report including a description of the tower with technical explanations of its design.
 - 3. Documentation establishing the structural integrity of the tower's proposed use.
 - 4. The maximum capacity of the tower and information necessary to ensure that ANSI standards are met, and what capacity is being proposed.
 - 5. A statement of intent regarding co-location and the availability of potential leasable spaces.
 - 6. Proof of ownership of the proposed site or authorization to utilize it.
 - 7. Copies of any easements affecting the property.
 - 8. An analysis of the topography of the site and its relationship with neighboring properties.
 - 9. A study depicting where any portions of the tower could be seen within a two-mile radius of the site.
- B. Siting Criteria. The locating of telecommunication antennas and towers shall be determined according to the following:
 - 1. All new telecommunication antennas shall be co-located on an existing tower; provided that the planning commission may waive this requirement if it finds that co-location is impossible. Co-location on an existing tower will be deemed impossible only if there are no spaces for co-location on existing towers or other facilities in the Village. Co-location will not be deemed impossible only if it may result in increased costs to the applicant. If an applicant maintains that co-location on an existing tower is impossible, the applicant must state in writing, and has the burden of demonstrating, each of the following:
 - a. The names, addresses, telephone numbers, and email addresses of the owners of existing towers of which the applicant inquired regarding the availability of space.

- b. Details of all the efforts the applicant made to secure the right to use existing towers. This shall include details of all contacts including the names, addresses and telephone numbers of all persons contacted; dates and methods of contacts; the substance of all communications, etc.
 - c. The specific reasons co-location on an existing tower is impossible. If there are technical reasons why co-location is impossible, the Village may retain a technical expert to review the applicant's rationale. If the Village technical expert disagrees with the applicant's expert, the applicant shall pay the cost incurred by the Village for such expert. The applicant shall deposit with the Village an amount equal to the anticipated cost of the review by the Village's technical expert prior to any action by the planning commission on the applicant's request to construct a new tower. Such amount shall be held in escrow and any amount not needed to support the actual costs of said expert review shall be returned if the Village's expert confirms the applicant's claim.
 - 2. If the planning commission determines that co-location on an existing tower is impossible, the applicant may request permission to construct a new tower in the TI, Transitional Industrial district or I, Industrial district, provided that all requirements of the zoning district in which a tower would be located are met, including minimum lot size.
 - 3. Any new tower shall be at least one-half mile from an existing tower.
- C. Co-location Standards. Any proposed tower shall be made suitable for at least three (3) co-locations, for a total of four (4) antenna locations. No person shall construct a new tower unless it is suitable for co-location of the antennae of potential future applicants.
- 1. In determining whether a proposed tower meets this requirement, the planning commission shall consider the written statements of the applicant and the applicant's engineer. The planning commission may also consider other information it finds to be relevant or helpful including those of any expert(s) retained by the Village and the statements of others in the telecommunications business.
 - 2. The applicant shall provide to the planning commission:
 - a. A written statement of the applicant's engineer identifying the number of additional antennae that can co-locate on the proposed tower and further identifying the types and estimated costs of modifications to the proposed tower which would be necessary to accommodate the co-location of those additional cellular antennae.
 - b. A written statement indicating the terms and conditions upon which it will allow a future applicant to co-locate its antennae on the applicant's proposed tower, which terms and conditions shall be reasonable in the current marketplace. The terms and conditions shall include the amount of rent or other financial consideration which the applicant shall require a future applicant to pay for the privilege of co-locating its antenna on the proposed tower, which amount may be subject to change only to reflect changes in the consumer price index.
 - 3. The applicant's failure or refusal to allow any future applicant to co-locate its antenna on the applicant's tower consistent with these terms and conditions shall be a sufficient ground for the Village's revocation of the special use permit granted to the applicant.
- D. General Standards for Towers.
- 1. The tower (including the lightning rod) and any antenna located thereon must be less than two hundred (200) feet in height.

2. To the extent it is compatible with the co-location requirements above, the tower must be of a monopole design, capable of supplying its own support without the assistance of guy wires or other supports.
3. The tower and antennas located thereon shall not have any lights or signs of any kind and shall not be illuminated either directly or indirectly by any artificial means, except when lighting is required by either the Federal Aviation Administration or Michigan Department of Transportation. Unless otherwise required, the tower shall use an aircraft detection lighting system (ADLS).
4. No advertising logo, trademark, figures, or other similar marking or lettering shall be placed on the tower, on any attachments thereto, or on any accessory buildings.
5. The tower shall be located so that, in the event of a tower collapse, the tower shall fall completely within the boundaries of the property on which it is located. The applicant shall demonstrate compliance with this requirement.
6. Any equipment used in conjunction with the tower, other than antennas placed upon the tower, shall be located within a completely enclosed building, which shall not be any larger than two hundred forty (240) square feet in area, or in an equipment cabinet. Any lighting for the building or equipment cabinet shall be directed downward. There shall be no storage or placement of personal property outside such building or cabinet.
7. Personnel shall not be continuously on the premises but may come onto the site for servicing, maintenance, and related work necessary for the operation of the tower and related equipment.
8. No toxic, hazardous, or other dangerous substance of any kind shall be stored, placed, or used on the property; except fuel used specifically for emergency electrical generators, which fuel shall be located within fuel tanks directly attached to such generators. Notwithstanding the above, maintenance crews may bring onto the property, while maintenance is being conducted, lubricants and other materials reasonably necessary to properly maintain the facility, provided there is compliance with all of the applicable village, county, state, and federal ordinances, statutes, rules, and regulations.
9. The owner and operator must comply with Federal Communications Commission regulations for radio frequency standards for the tower and all current and future co-location wireless systems.
10. The tower must be engineered and constructed to withstand ninety-mile-per-hour winds.
11. The applicant shall demonstrate by way of a written opinion of a registered engineer that the proposed tower meets all of the applicable local, state, and federal building requirements.
12. The owner and operator of the tower, and any subsequent owner or operator of the tower, must make reasonable accommodations for co-location of antennas or other similar devices to provide personal wireless service and/or functionally equivalent services by other providers upon payment of reasonable compensation under all of the circumstances and provided such co-location is technically feasible.
13. Applications for new towers or antennas are also subject to the provisions of Section 514 of the Michigan Zoning Enabling Act, as amended (MCL 125.3514 et. seq.) In the event that the provisions of this ordinance conflict with the provisions said Act, the provisions of the Act shall control.

- E. Abandonment. A tower that remains unused for its original purpose for a period of twelve (12) months or more shall be deemed abandoned. In the event of abandonment, the tower and any accessory structures must be removed by the owner, at the owner's sole expense, upon written notification by the Village of Shelby. If the owner fails to comply with this provision, the Village shall have the right to remove or have removed the cellular tower and shall be permitted to charge the costs of removal against the real property on which the tower had been located.

CHAPTER 15. SITE PLAN REVIEW

SECTION 15.01. PURPOSE AND INTENT

The intent of this section is to provide for consultation and cooperation between the land developer and the Planning Commission in order that the developer may accomplish objectives in the utilization of land within the regulations of the Ordinance, with minimum adverse effect on the land, highways, and on existing and future uses of property in the immediate vicinity, and to insure that a proposed land use or activity is in compliance with this Ordinance.

SECTION 15.02. SITE PLAN REQUIRED

Site plan review and approval shall be required for all uses described in this Section before any change of use, excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development. Except as hereinafter provided, no building permit shall be issued for any building or use, reduction or enlargement in size, or other alteration of any building or change in use of any building, including accessory buildings, unless a site plan is first submitted and approved pursuant to the provisions of this Chapter.

A. All uses in the following districts shall require site plan approval:

C1	Central Business District
C2	General Business District
IND	Industrial district

B. In the R1, R2, R3, and R4 districts, site plan approval shall be required for all uses other than single-family and two-family dwellings and their accessory structures, and uses such as home occupations, state-licensed residential care facilities (1-6 persons).

C. Site plan review and approval shall be required for all special land uses, and for all developments, including all dwellings, to be located in a wetland as defined by the Michigan Department of Natural Resources (DNR) or the Michigan Department of Energy, Great Lakes, and Environment (EGLE), or within a 100-year Floodplain as determined by FEMA.

D. Site plan review and approval by the Planning Commission shall not be required if the construction, alteration, or change of occupancy or use does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of site plan review. In those cases, a zoning permit issued by the Zoning Administrator shall be required.

SECTION 15.03. OPTIONAL SKETCH PLAN REVIEW

A. Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to site plan review. The purpose of such procedure is to allow discussion between a developer and the Planning Commission, to inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs that might be necessary for final site plan approval. Such sketch plans shall include the following:

1. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.
 2. Legal description, property parcel number, and street address of the subject parcel of land.
 3. Sketch plans showing tentative site and development plans.
- B. The Planning Commission shall not be bound by any comments or tentative judgments made at this time and may require the applicant to sign an affidavit acknowledging the advisory nature of the optional sketch plan review process.

SECTION 15.04. APPLICATION PROCEDURE

A request for site plan review shall be made at least 30 days prior to the next regular Planning Commission meeting by filing with the Zoning Administrator the following information:

- A. An application for site plan review consisting of the following:
1. A completed application form, as provided by the Village.
 2. Payment of a fee, in accordance with a fee schedule as determined by the Village Council.
 3. A legal description of the subject property.
 4. Ten copies and a PDF of the site plan, which shall include and illustrate at a minimum the following information:
 - a. Small scale sketch of properties, streets, and use of land within one-half mile of the area.
 - b. A site plan at a scale of not more than one inch equals 100 feet showing any existing or proposed arrangement of:
 - c. Existing adjacent streets and proposed streets.
 - d. Existing proposed lots.
 - e. Parking lots and access points.
 - f. Natural features including, but not limited to, open space, stands of trees, brooks, ponds, hills, and similar natural assets both on the subject property and within 100 feet of the property line.
 - g. Location of any signs not attached to the building.
 - h. Existing and proposed buildings.
 - i. Existing and proposed general topographical features including contour intervals no greater than two feet.
 - j. Present zoning of the subject property and adjacent property.
 - k. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the site.

- l. Location and type of drainage, storm sewers, and other facilities, including surface and subsurface drainage for all impermeable surfaces on the site and all drainage calculations.
 - m. A landscape plan in accordance with Section 16.01 of this Ordinance.
 - n. Existing and proposed water main and sanitary sewer, natural gas, electric, telephone, cable television and other utilities, the proposed location of connections to existing utilities, and any proposed extensions thereof.
 - o. Detail pertaining to proposed signage including an illustration of all proposed signs, their surface area, height, and nature of illumination.
 - p. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Zoning Administrator or the Planning Commission.
5. A narrative describing:
- a. The overall objectives of the proposed development.
 - b. Number of acres allocated to each proposed use and gross area in building, structures, parking, public, and/or private streets and drives and open spaces.
 - c. Dwelling unit densities by type, if applicable.
 - d. Proposed method of providing sewer and water service as well as other public and private utilities.
 - e. Proposed method of providing storm drainage.
- B. Modification of Requirements. The Zoning Administrator or Planning Commission may waive the submission of certain materials outlined in this Section 15.04 if such materials are determined to be not pertinent to the application.
- C. The Planning Commission or Zoning Administrator may require additional information to be illustrated on the site plan beyond what is required in this Section to consider the impact of the project upon adjacent properties and the general public. The Planning Commission or Zoning Administrator may also require the submission of special studies or research including, but not limited to, traffic impact studies, environmental impact statements, hydrogeological studies, and/or market studies to aid in the evaluation of any site plan.

SECTION 15.05. ACTION ON APPLICATION AND SITE PLANS

- A. Upon receipt of the application and plans, the Zoning Administrator shall review the application materials for completeness. If complete, the Zoning Administrator shall transmit one copy to each Planning Commissioner; one copy to the Fire Department and other review agencies when applicable, and retain one copy in the Village offices.
- B. A Planning Commission meeting shall be scheduled for a review of the application and site plan. The meeting shall be held within 60 days of the date of the receipt of the completed plans and application.
- C. After the receipt of all required materials, the Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained

in this Ordinance. Any conditions required by the Planning Commission shall be stated in writing and delivered to the applicant.

SECTION 15.06. SITE PLAN REVIEW STANDARDS

In the process of reviewing a site plan, the Planning Commission shall consider the following:

- A. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Village or the Oceana County Road Commission.
- B. That the buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- C. That as many natural features of the landscape shall be retained as practicable, particularly where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- D. That all provisions of this Ordinance are satisfied unless an appropriate variance has been granted by the Zoning Board of Appeals.
- E. That all buildings and structures are accessible to emergency vehicles.
- F. That a plan for erosion control, storm water discharge, utility connections, and similar provisions has been approved by the appropriate public agency.
- G. That the plan as approved is consistent with the intent and purpose of this Ordinance.

SECTION 15.07. APPROVED SITE PLANS

- A. Site Plan Approval. A site plan shall be approved if it contains the information required by, and is in compliance with, the Zoning Ordinance, the conditions imposed pursuant to the Ordinance, other Village planning documents, other applicable ordinances, and state and federal statutes. Three copies of the approved site plan and any supporting documents shall be signed by the Chairman or Secretary of the Planning Commission and the applicant. Two copies of the approved site plan shall be kept on file by the Village and the other copy shall be retained by the applicant.
- B. Conformity to Approved Site Plans. Property that is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments or changes thereto that have received the approval of the Planning Commission or Zoning Administrator. If construction and development does not conform to such approved plans, the approval may be revoked or suspended by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.
- C. Duration of Approval. An approved site plan shall be valid for a period of two years after the date of approval. Upon written request by the applicant stating the reasons therefore, the Planning Commission may extend a site plan approval for an additional one year period if one or more of the following conditions exist:

1. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.
 2. The requirements and standards, including those of the zoning ordinance that are reasonably related to the development, have not changed.
 3. Development or redevelopment in the proximity to the approved site plan has not resulted in changed conditions impacting the site.
 4. There has not been a change in state or federal law, local charter, or other local ordinance prohibiting the construction or further construction of the approved project.
- D. An application for an extension of a site plan must be filed at least 60 days prior to the expiration of the original site plan or the expiration of any extension previously approved by the Village, whichever is applicable.
- E. If a site plan expires pursuant to subsection 15.07 (C), above, no work may be undertaken until a new site plan has been approved by the Planning Commission pursuant to the standards of this Chapter.

SECTION 15.08. CHANGES TO APPROVED SITE PLAN

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator pursuant to the following standards:

- A. Minor changes to an approved site plan involving changes in the location of buildings and structures, adjustment of utilities, walkways, trafficway, landscaping, and building size up to 10 percent of the approved area, parking areas, and similar minor changes may be approved by the Zoning Administrator. The Zoning Administrator shall report all administratively approved changes of a site plan to the Planning Commission at their next regularly scheduled meeting.
- B. Major changes or amendments to an approved site plan involving change in the number and location of accesses to public streets and alleys, a reduction in the number of parking spaces, a major relocation or of a building, and increase in the gross floor area or heights of buildings, a reduction in the open space, and similar major changes, shall require the approval of the Planning Commission in the same manner as the original application was submitted, reviewed, and approved.

SECTION 15.09. APPEALS

With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the same manner as other administrative decisions. The concurring vote of a majority of the members of said Board shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the Village, County, or State. The Zoning Board of Appeals shall state the grounds of each determination.

SECTION 15.10. PERFORMANCE GUARANTEES

In approving a site plan, the Planning Commission may require a performance guarantee pursuant to Section 18.07 of this Ordinance.

CHAPTER 16. SITE DEVELOPMENT REQUIREMENTS

SECTION 16.01. LANDSCAPING, BUFFERING AND SCREENING

Section 16.01.01. 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 16.01.02. Applicability

The regulations of this Chapter are applicable to all proposed developments requiring a site plan pursuant to this Ordinance, any new parking lot containing 20 or more spaces, and any addition existing parking lot that results in the expanded lot containing 20 or more spaces.

Section 16.01.03. 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 16.01.04. 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 18.07 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 that 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 fifty (50) feet on center;
 - 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.

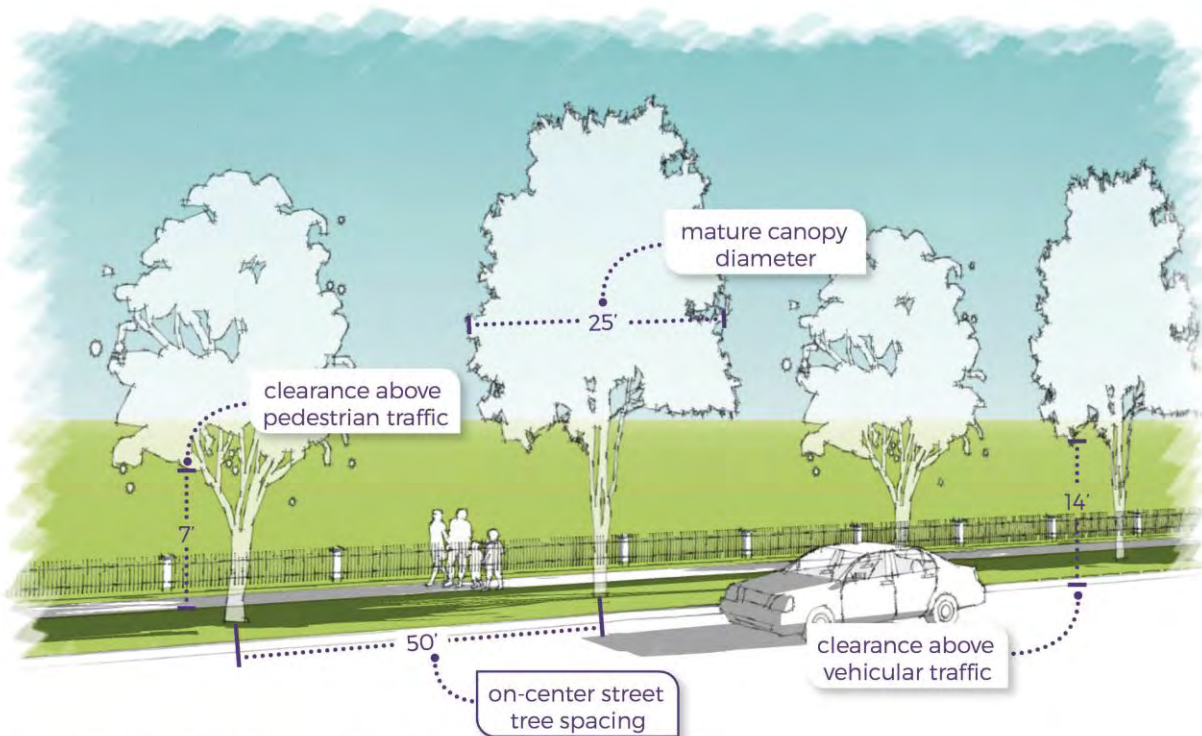


Figure 16.1. STREET TREES

- 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 waive the above requirement or 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 15.
- L. Performance Guarantee. The Zoning Administrator or Planning Commission may require a performance guarantee per Section 18.07 of this Ordinance to ensure proper installation and maintenance of all required landscaping.
- M. Modification of Standards. The Zoning Administrator, Planning Commission, or Village Council may lessen the requirements of this Section 16.01 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 16.01.05. 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 residential zoning district, there shall be provided a transition strip. Such transition strip may also be required of a planned unit development 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.

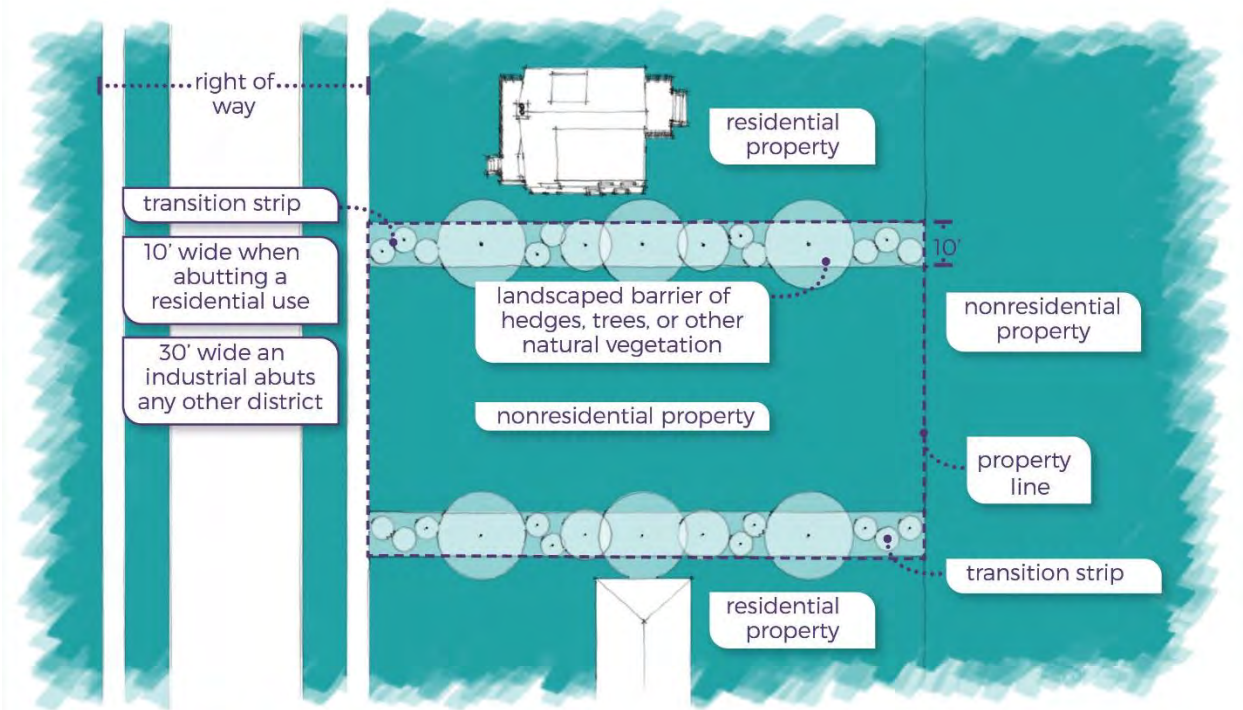


Figure 16.2. TRANSITION STRIPS

- 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 16.01.06

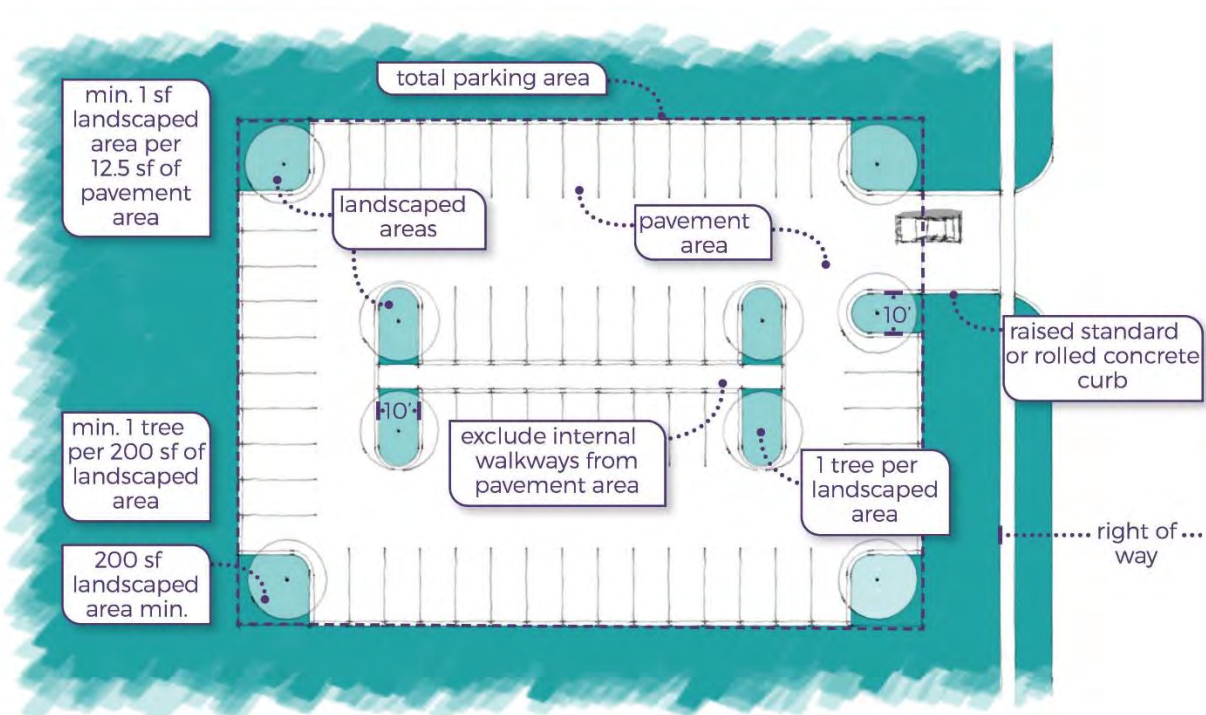


Figure 16.3. TRANSITION STRIPS

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

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.

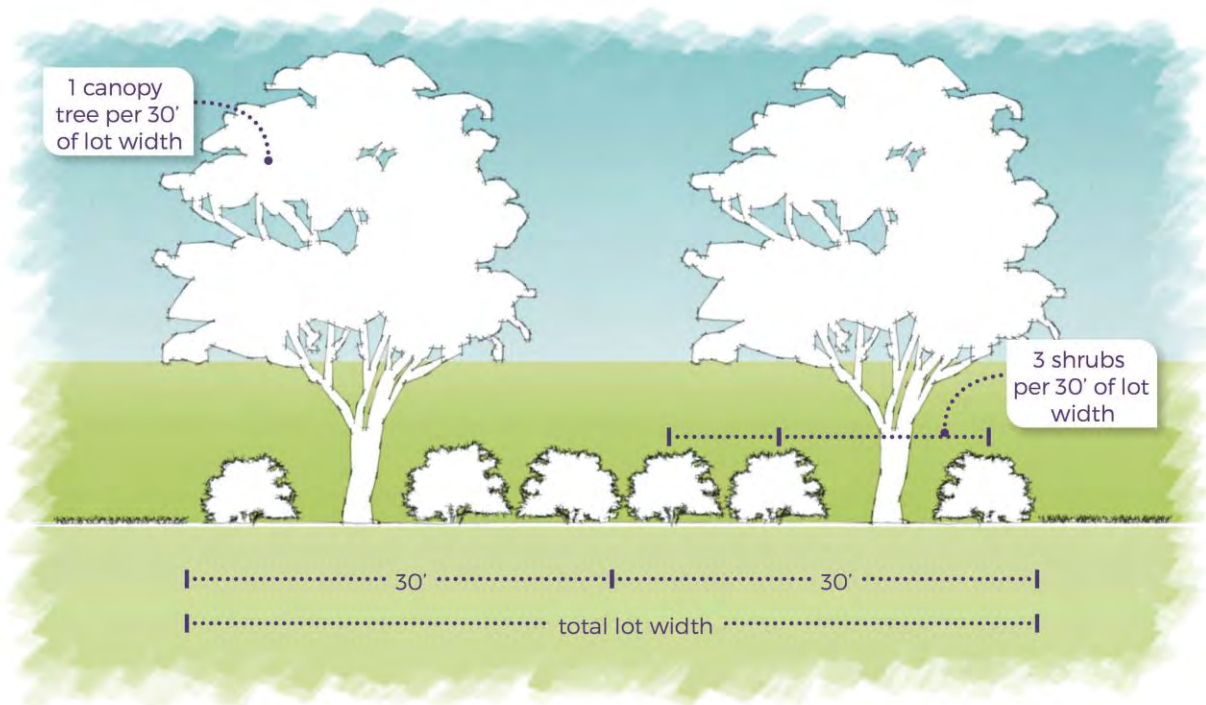


Figure 16.4. FRONT YARD LANDSCAPING

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.

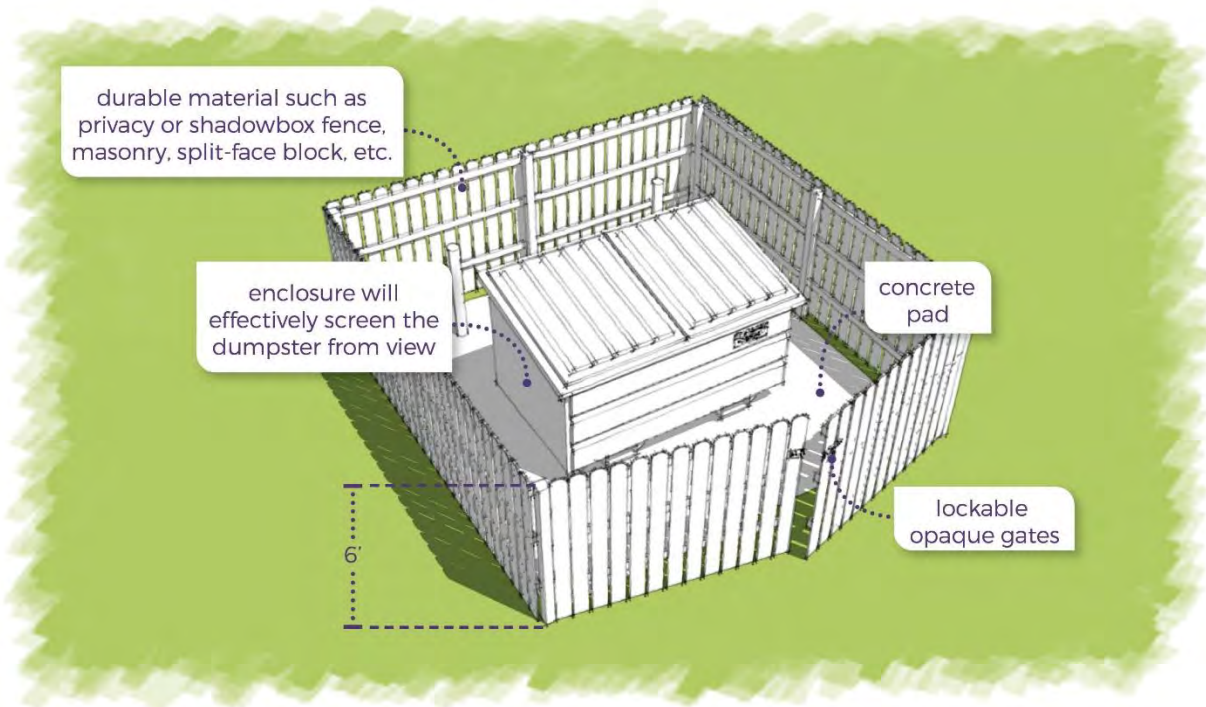


Figure 16.5. STORAGE AND DUMPSTERS

Section 16.01.06. 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 the 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 the 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 the 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>Gymnocladus 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

Common Name	Botanical Name
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 16.02. PARKING AND LOADING

Section 16.02.01. 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 16.02.02. 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 16.02.03. 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 16.02.04. Number of Off-Street Parking Spaces Required

The number of required off-street parking spaces on a site shall be determined in accordance with the following table. The table below shall be used as a guide, rather than a strict minimum, in determining the number of parking spaces typically needed for the uses below.

Off-Street Parking Space Guidelines	
Use	Parking Spaces Required
Art studio/craft shops	1 for each 500 square feet of floor area
Assembly, processing, fabrication, or manufacturing facilities	1 for each employee on the maximum shift or peak employment period
Bed and breakfast establishments	Applicant shall demonstrate parking demand
Bulk oil, gasoline, liquid propane gas, and compressed natural gas distribution and storage facilities	1 for each employee on the maximum shift or peak employment period
Catering establishments	Applicant shall demonstrate parking demand
Cemeteries	Applicant shall demonstrate parking demand
Commercial day care centers	Applicant shall demonstrate parking demand
Commercial storage warehouses	Applicant shall demonstrate parking demand
Contractor's offices	1 for each 500 square feet of floor area
Convalescent or nursing homes	Applicant shall demonstrate parking demand
Elderly housing	1 for each unit
Family day care home	Applicant shall demonstrate parking demand
Farm Market	Applicant shall demonstrate parking demand
Financial institutions, without drive through facilities	1 for each 200 square feet of floor area
Fraternal or social club or lodge	1 for each 3 persons allowed within the maximum occupancy permitted by building code
Home occupations, subject to Section 3.24	Applicant shall demonstrate parking demand
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
Hotels/motels	1 for each guest room, plus amount required for other uses on the premises, plus 1 per employee on the largest shift
Kennels, commercial	Applicant shall demonstrate parking demand
Laundromats	1 for each 300 square feet of gross floor area
Lumberyards	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
Manufactured home communities	Applicant shall demonstrate parking demand
Medical offices	1 for each 250 square feet plus 1 for each employee on the largest shift
Mortuary or funeral homes	1 for each employee on the largest shift, plus 1 per 4 seats of legal capacity
Multiple family dwellings	1.5 for each dwelling unit
Open air businesses	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

Off-Street Parking Space Guidelines	
Use	Parking Spaces Required
Parks, playgrounds, or community centers	Applicant shall demonstrate parking demand
Personal service establishments	1 for each 300 square feet of gross floor area
Places of public assembly	1 for each 4 seats of legal capacity
Printing and publishing establishments	Applicant shall demonstrate parking demand
Private schools	2 for each 3 employees normally engaged in or about the building and grounds
Professional offices	1 for each 300 square feet of gross floor area
Public or utility service buildings or yards	Applicant shall demonstrate parking demand
Recreation facilities, indoor	1 for each 3 persons of legal capacity
Recreation facilities, outdoor	Applicant shall demonstrate parking demand
Research, development, and laboratory facilities	1 for each employee on the maximum shift or peak employment period
Residential above retail/office	1.5 spaces for each dwelling unit, plus parking for the nonresidential uses as determined in this table
Restaurants	1 for each 3 persons of legal capacity
Retail establishments	1 for each 250 square feet of gross floor area
Salvage or junk yards	Applicant shall demonstrate parking demand
Sexually oriented businesses	Applicant shall demonstrate parking demand
Single family detached dwellings	2 per dwelling unit
State licensed residential facilities	Applicant shall demonstrate parking demand
Trucking terminals	Applicant shall demonstrate parking demand
Two-family dwellings	2 per dwelling unit
Vehicle repair	1 space per employee of largest shift, plus 1 space per service bay
Vehicle service 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
Vehicle wash establishments	3 stacking spaces per bay, plus 1 space per 350 square feet of retail/office space, not including care wash bays
Veterinary clinics	1 for each 250 square feet plus 1 for each employee on the largest shift
Warehouses	1 for each employee on the largest shift, plus 5 visitor spaces
Wireless communication tower	Applicant shall demonstrate parking demand

Section 16.02.05. Adjustment of Standards

The Planning Commission may allow for deviations from the above guide 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 16.02.01 and protect the public health, safety, and welfare.

Section 16.02.06. 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 16.02.04.
- B. For any use not specifically listed in Section 16.02.04, 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. Screening. Off-street parking facilities shall be effectively screened pursuant to Section 16.01 of this Ordinance.
- H. Modifications/Expansions to Existing Parking Lots. The Zoning Administrator shall review plans (including landscaping plans) for major changes to an existing parking lot. Major changes to parking lots shall comply with the requirements of this Chapter unless they are

approved by the Planning Commission or Zoning Administrator as permitted by this Section. Major changes consist of the following:

1. Replacement or alteration of existing drainage elevations or structures affecting more than fifty (50) percent of the existing parking lot.
 2. For any expansion or addition of a parking lot equal to or greater than twenty-five (25) percent of the area of the existing parking lot, the expanded area shall comply with the landscaping requirements of this Section.
 3. Reconstruction of the parking lot, including the removal of existing pavement and drainage structures, that affects more than twenty-five (25) percent of the existing parking lot. Instances in which a parking lot is to be resurfaced and no other modifications to the parking lot or drainage patterns are proposed shall not constitute "reconstruction" for the purposes of this subsection.
 4. Any other change which, in the opinion of the Zoning Administrator, constitutes a major change. The phased expansion or replacement of parking lots and/or surfaces in order to circumvent the requirements of this section is prohibited.
- I. The Zoning Administrator may waive the requirements of this Section if it is determined that the parking lot landscaping requirements of this Section would unreasonably reduce the number of spaces within the parking lot. The Zoning Administrator may refer any parking lot replacement or expansion to the Planning Commission for a decision.
- J. Lighting. Off-street parking facilities shall be arranged and designed pursuant to Section 3.12 of this Ordinance.

Section 16.02.07. 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 delineated 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 paved with 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.

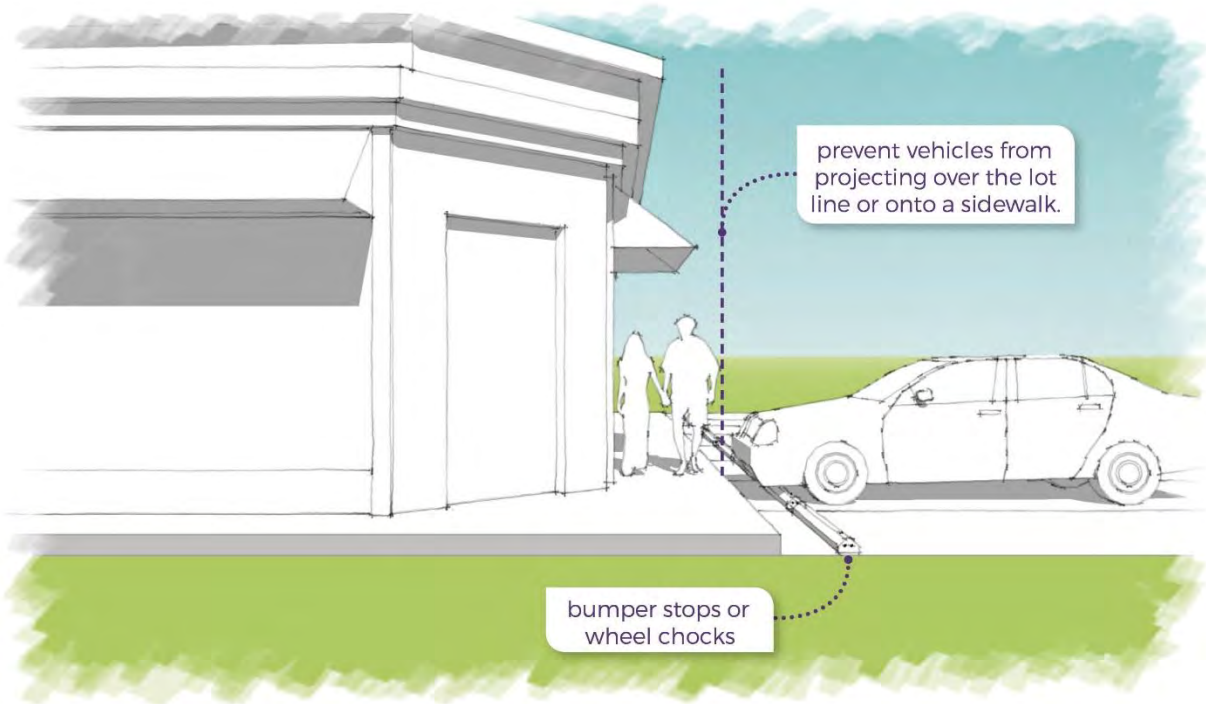


Figure 16.6. BUMPER STOPS

- 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		Parking Space	
	Maneuvering Aisle Width		Width	Length
	1 Way	2 Way		
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

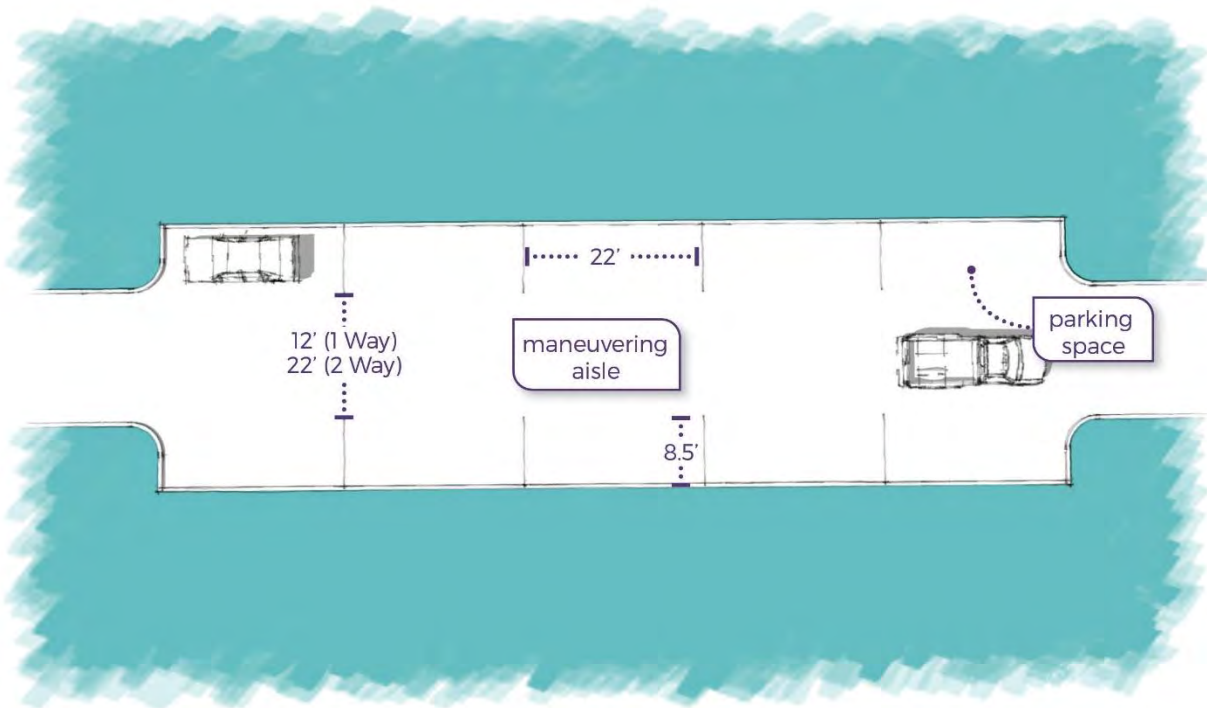


Figure 16.7A. PARKING SPACE DIMENSIONS: 0 DEGREES (PARALLEL)

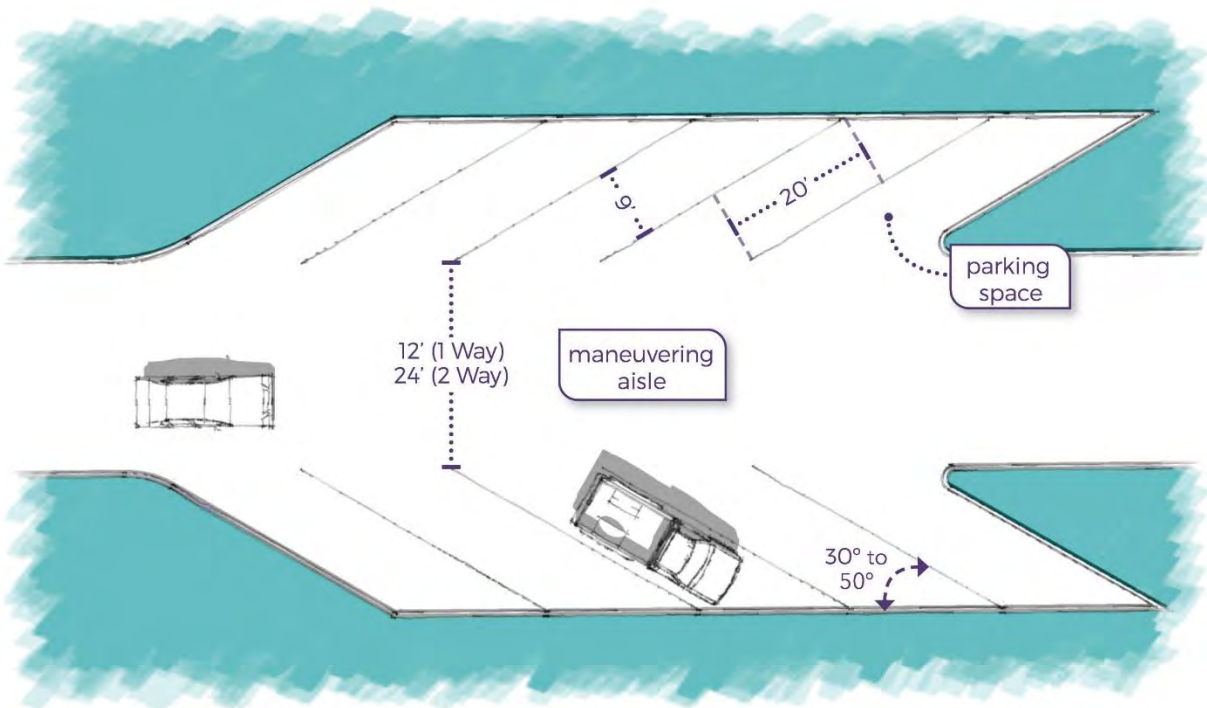


Figure 16.7B. PARKING SPACE DIMENSIONS: 30-53 DEGREES

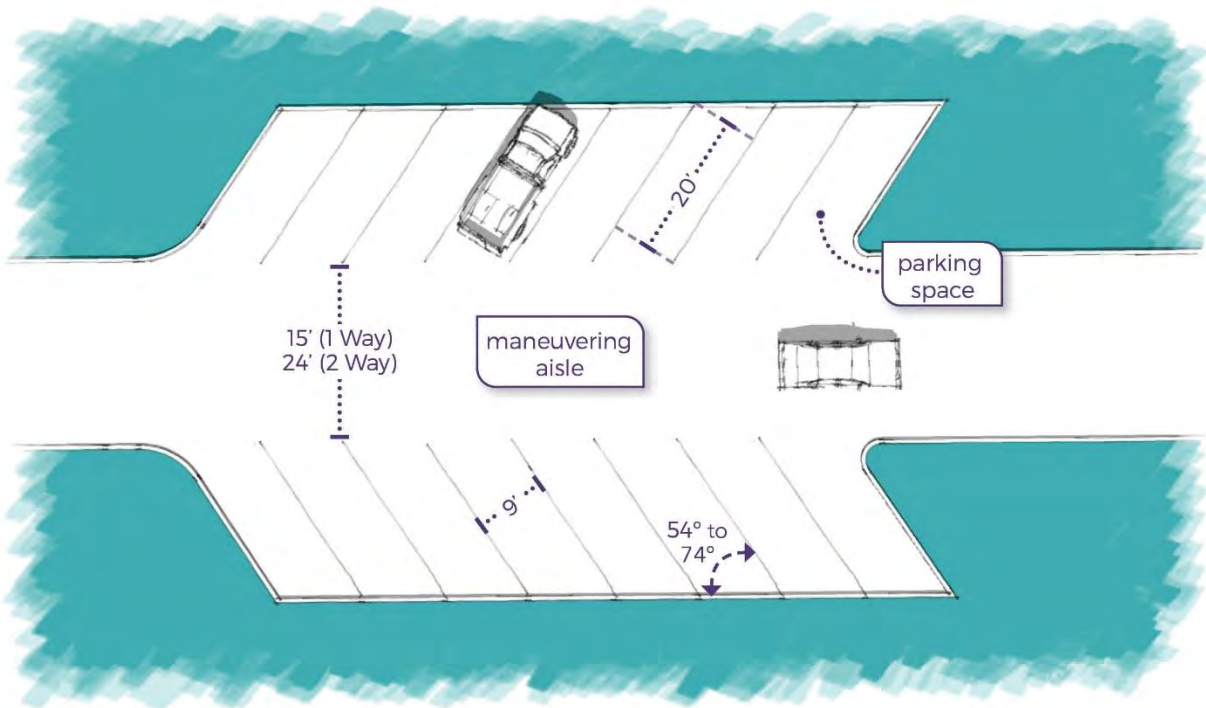


Figure 16.7C. PARKING SPACE DIMENSIONS: 54-74 DEGREES

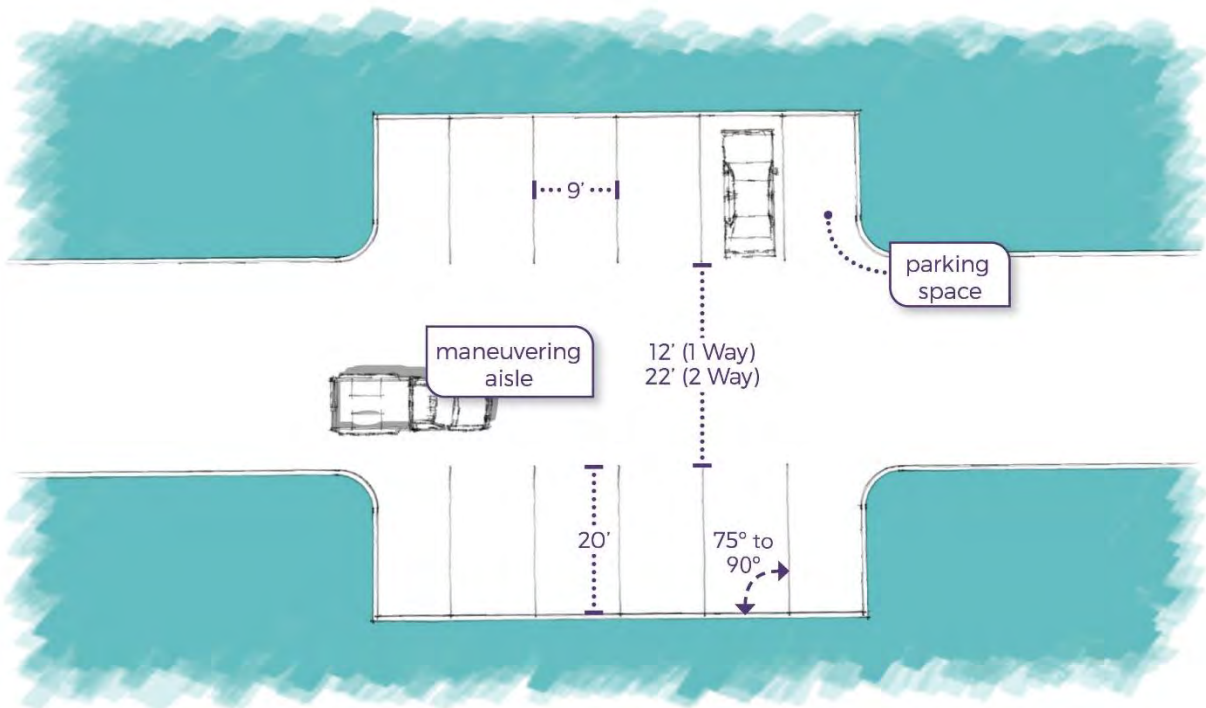


Figure 16.7D. PARKING SPACE DIMENSIONS: 75-90 DEGREES

Section 16.02.08. 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 16.03.08.

SECTION 16.03. SIGNS

Section 16.03.01. 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 16.03.02. 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 sign 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 16.03.03. 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.

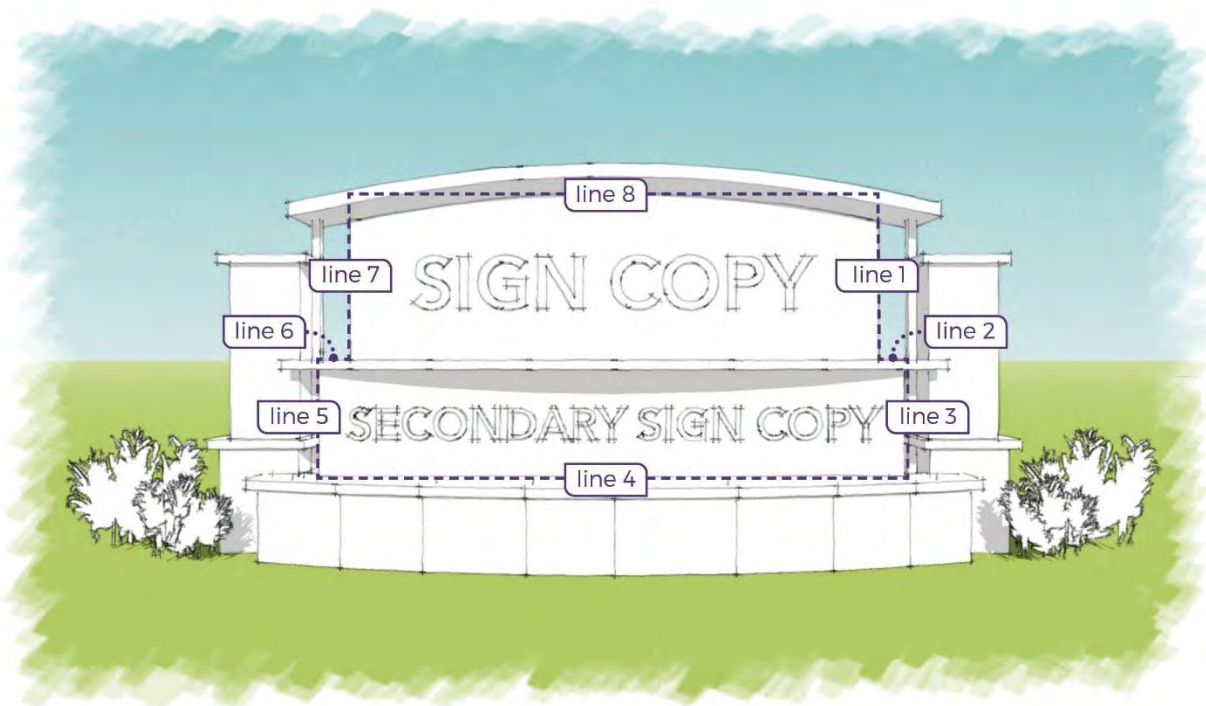


Figure 16.8. SIGN AREA

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.

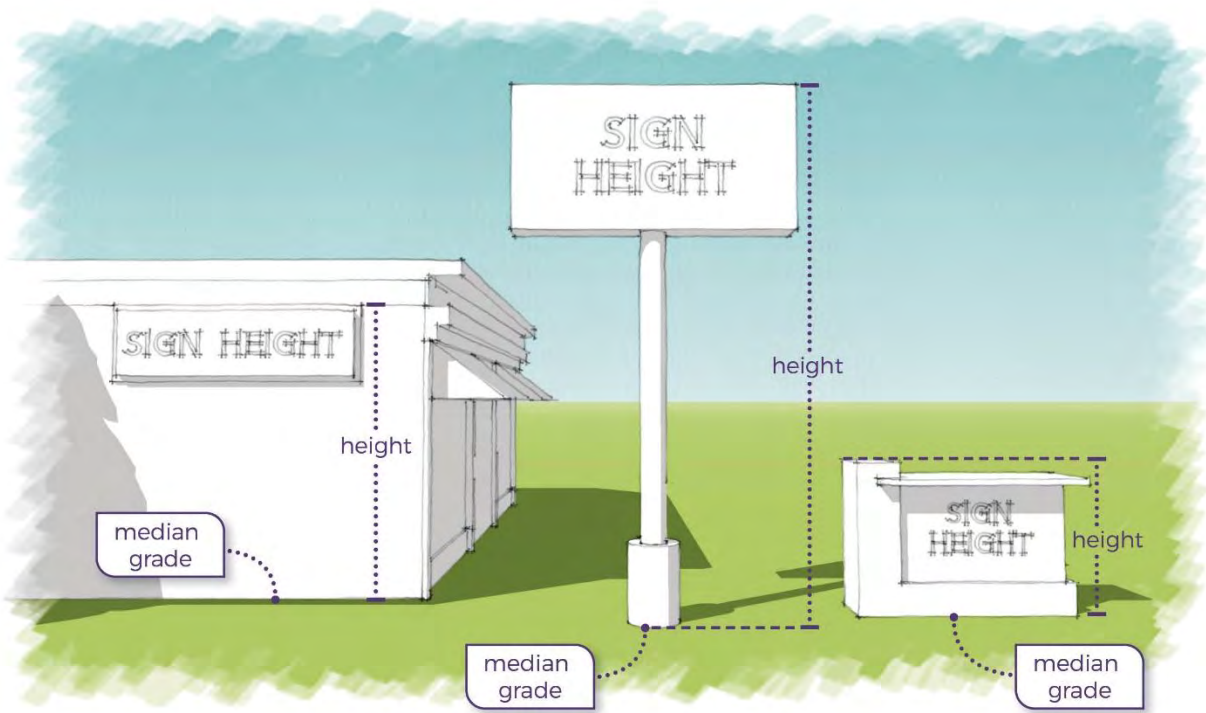


Figure 16.9. SIGN HEIGHT

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 16.03.04. 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 16.03.05.
 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 hours where the use is open to the public.

Section 16.03.05. 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. In other districts, no electronic message boards shall be permitted, except that for educational facilities and places of public assembly, except for public schools under the jurisdiction of the Michigan superintendent of public instruction, electronic message boards may be permitted if they 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.

Section 16.03.06. 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 16.03.07. 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 16.03.08. 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.
8. Sandwich Boards, subject to the following requirements:
 - a. Sandwich board signs shall be permitted, and only permitted, in C-1 Central Business District.
 - b. A sandwich board sign area shall not exceed twelve (12) square feet per side, a height of four (4) feet, and a width of three (3) feet
 - c. Sandwich boards shall not be illuminated
 - d. Sandwich boards shall not be permanently moored or anchored to any other object or structure, but shall be designed or weighted to prevent instability or movement by wind or other natural forces.
 - e. A sandwich board sign may only be placed in front of the business or establishment when it is open to customers, patrons or the public.
 - f. Only one (1) sandwich board sign shall be permitted for each business or establishment.

- g. All sandwich board signs shall be placed such that they do not block neighboring sandwich board signs or unreasonably interfere with pedestrian traffic.

Section 16.03.09. 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 16.03.10. 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 16.03.11. Permitted Signs

In addition to the above standards, the following signs are allowed within any zoning district, 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 15 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 Zoning Administrator 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 16.03.12. 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. ^{1,2}	8 ft.	No 3	2 ft. from right-of-way; 10 ft. from side lot lines

¹ 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.

² 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.

³ Signs located on lots containing churches, schools, or public buildings may be illuminated or contain electronic message boards in accordance with Section 16.03.04 and 16.03.05.

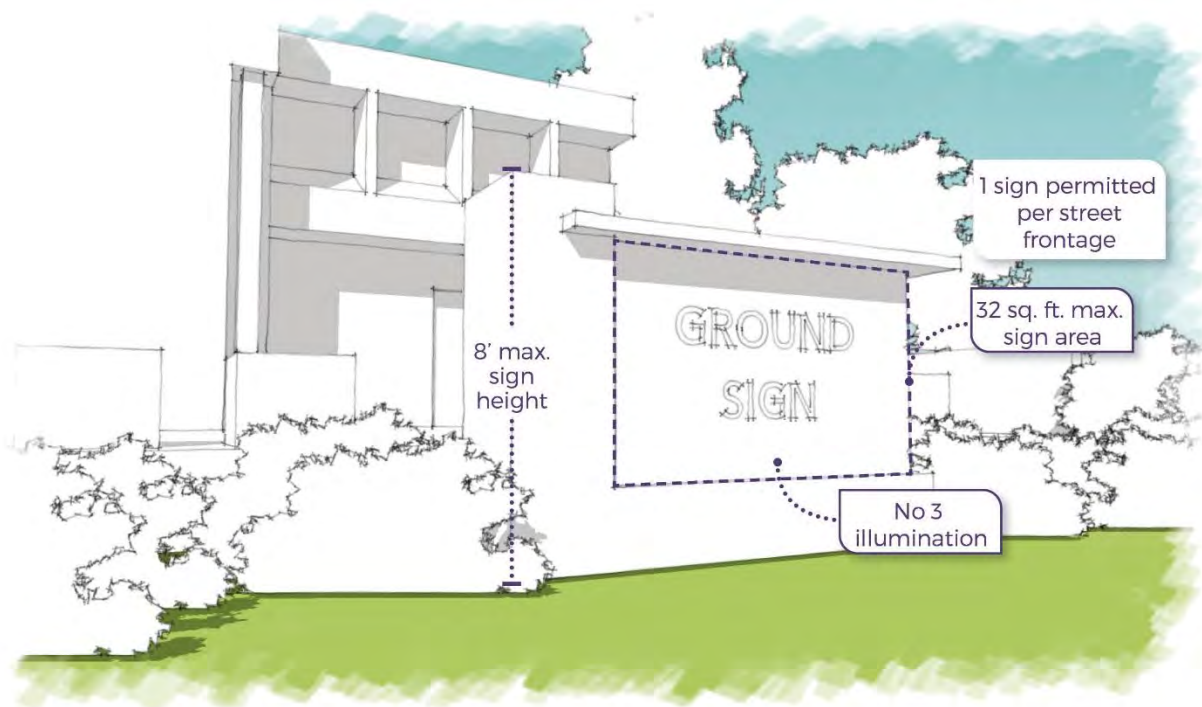


Figure 16.10. SIGNS PERMITTED IN RESIDENTIAL DISTRICTS

Section 16.03.13. 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 or non-motorized trail 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 (C2 and IND only)	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

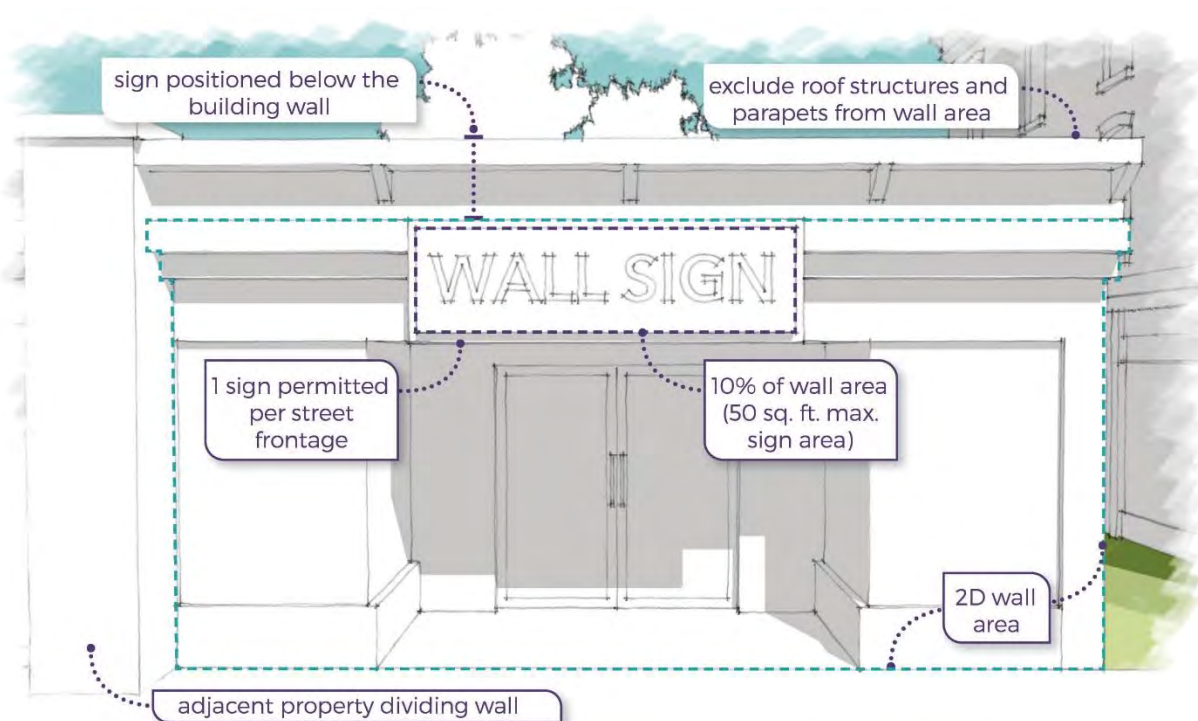


Figure 16.11A. SIGNS PERMITTED IN NONRESIDENTIAL DISTRICTS: WALL

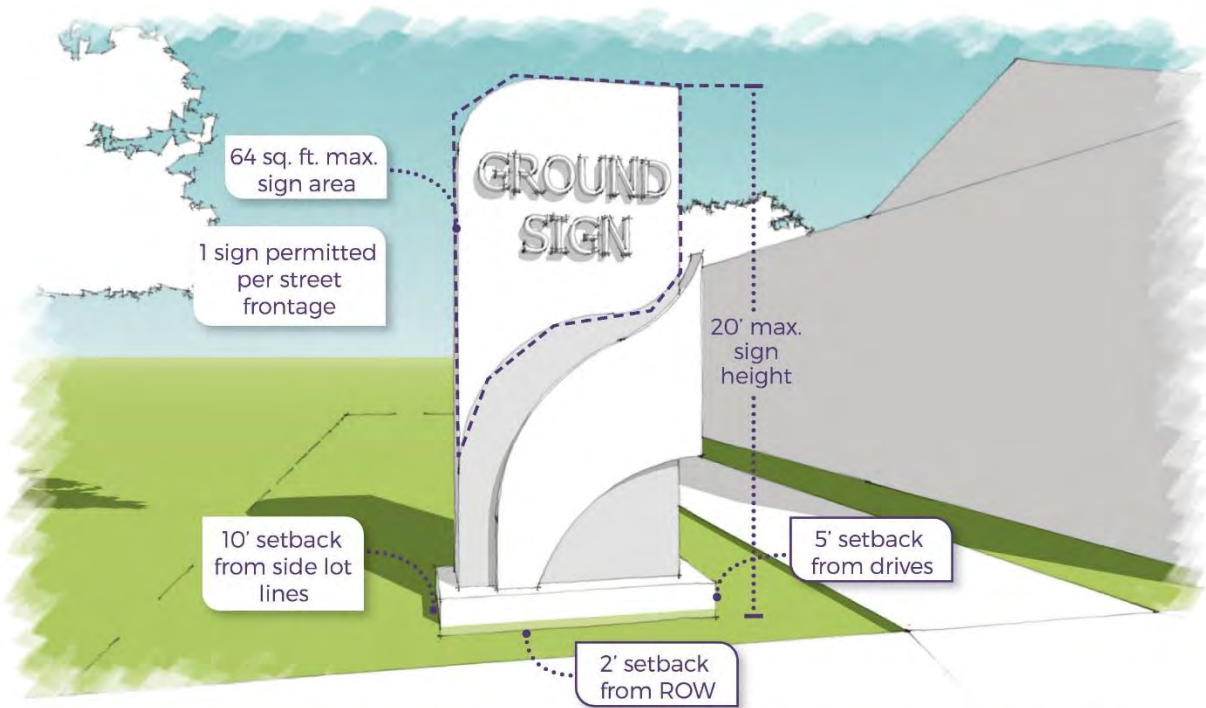


Figure 16.11B. SIGNS PERMITTED IN NONRESIDENTIAL DISTRICTS: GROUND

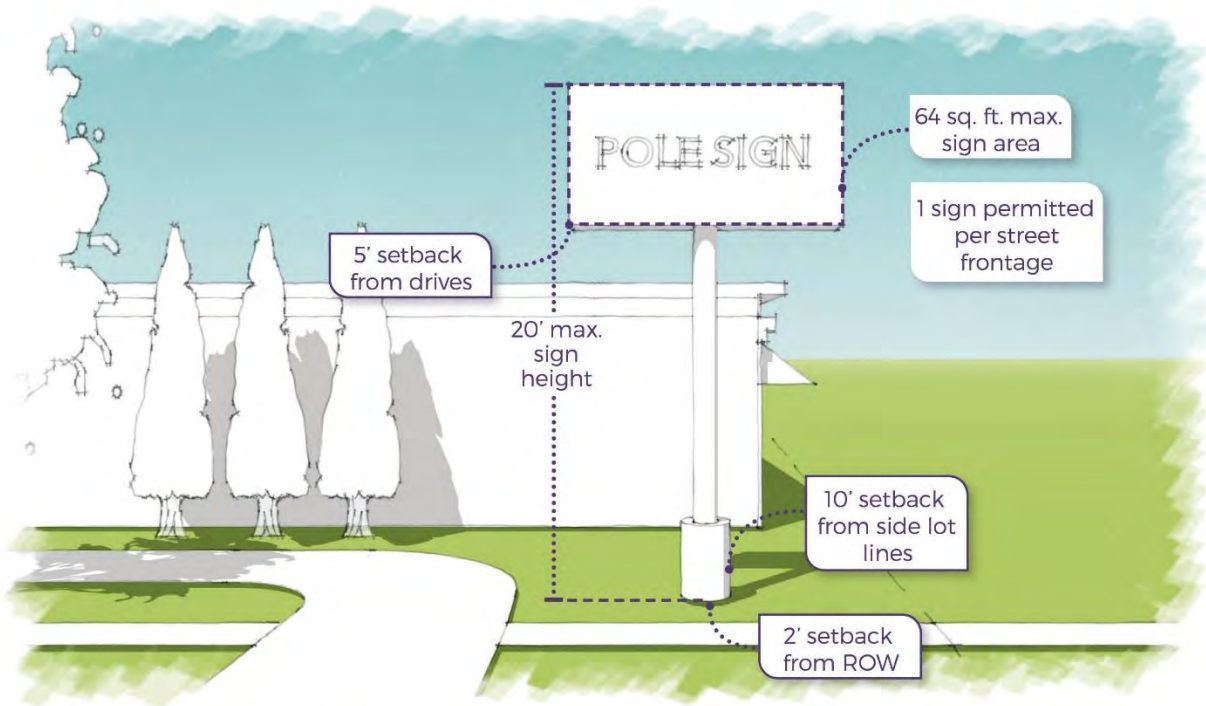


Figure 16.11C. SIGNS PERMITTED IN NONRESIDENTIAL DISTRICTS: POLE

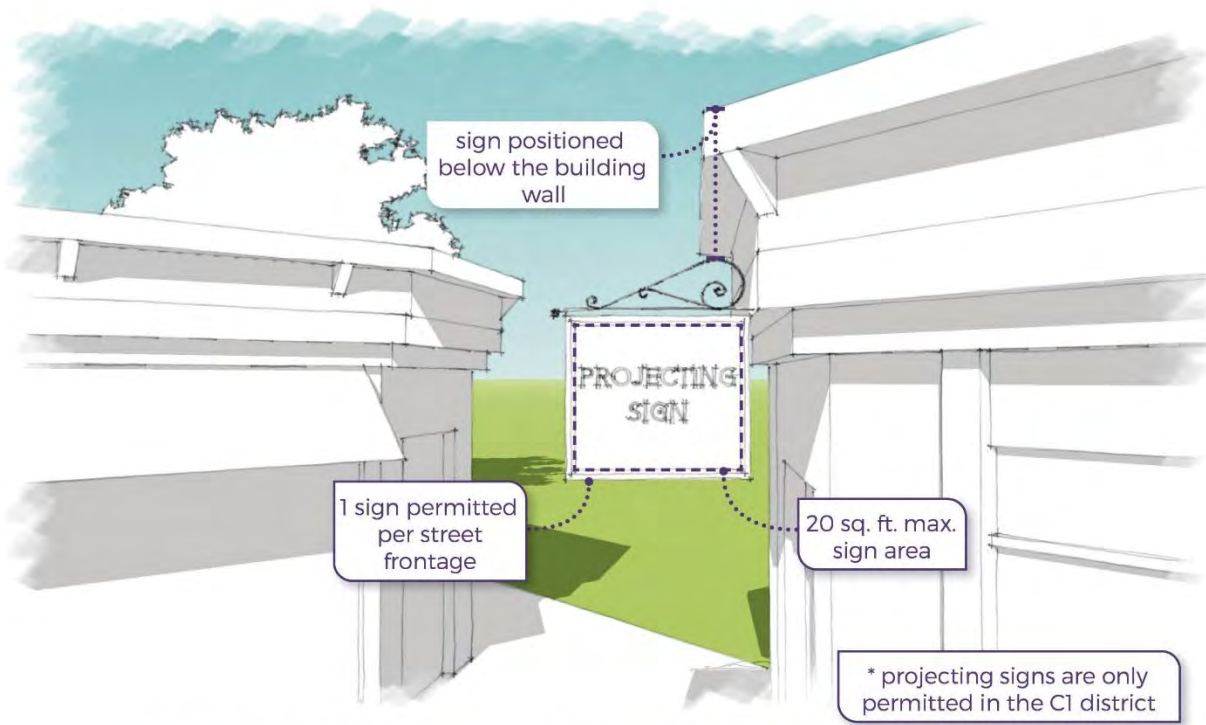


Figure 16.11D. SIGNS PERMITTED IN NONRESIDENTIAL DISTRICTS: PROJECTING*

Section 16.03.14. 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 3.26.

CHAPTER 17. ZONING BOARD OF APPEALS

SECTION 17.01. CREATION AND MEMBERSHIP

There is hereby established a Zoning Board of Appeals in accordance with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in said Act, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The Shelby Village Council shall serve as the Zoning Board of Appeals

SECTION 17.02. MEETINGS AND RECORDS

- A. Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure may specify. All hearings conducted by such Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. The record of the proceedings of the Zoning Board of Appeals shall be filed in the office of the Village Clerk and shall be a public record. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it.
- B. Quorum. The Board shall not conduct business unless a majority of the members of the Board are present. Five members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business.
- C. Public Hearing. The Zoning Board of Appeals shall make no decision regarding any application except after a public hearing is conducted by the Zoning Board of Appeals, providing the notice of such hearing in accordance with Section 18.03 of this Ordinance.

SECTION 17.03. JURISDICTION

- A. The Board shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance. The Board may act on matters where this Ordinance provides for an administrative review, interpretation, or exception; and to authorize a variance pursuant to Section 18.06 and granted in the Michigan Zoning Enabling Act, as amended.
- B. The powers of the Zoning Board of Appeals include:
 - 1. Appeals. To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance.
 - 2. Variances. To grant, upon request, a variance from the strict application of the provisions of this Ordinance in accordance with the standards, requirements, and procedures of this Article.
 - 3. Zoning Ordinance Interpretation. Upon request, the Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provisions is uncertain.

4. Any other matters referred to them or upon which they are required to consider under the terms of this Ordinance.

SECTION 17.04. APPLICATION AND REVIEW PROCEDURES

- A. An appeal may be taken to the board by any person, firm, or corporation, or by an officer, department, board, or bureau affected by a decision of the Zoning Administrator. Such appeal shall be taken by the Zoning Administrator as notice of appeal, specifying the grounds thereof.
- B. The following materials shall be filed with the Zoning Administrator at least 30 days in advance of the next regular meeting of the Zoning Board of Appeals:
- C. An application or appeal shall be filed not later than 30 days after the order, decision, or determination as to which the application or appeal is taken.
- D. After an application for an appeal, a variance, or other authorized relief is complete, has been filed in proper form, and the application fee has been paid, the Zoning Administrator shall transmit to the Zoning Board of Appeals all of the application materials and other evidence relevant to the application.
- E. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after notice of appeal has been filed, that by reason of fact stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of competent jurisdiction.
- F. Notice of public hearing shall be given in accordance with Section 18.03 of this Ordinance.
- G. Applicants shall be required to appear before the Board or to be represented by a representative who can speak for and make commitments on behalf of the applicant. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

SECTION 17.05. OFFICIAL RECORD

The Zoning Board of Appeals shall prepare an official record for all appeals and shall base its decision on this record. The official record shall include the following:

- A. The relevant administrative records and orders issued relating to the appeal.
- B. The notice of the appeal.
- C. Such applications, plans, documents, exhibits, photographs, or written reports as may be submitted to the Zoning Board of Appeals for its consideration.
- D. The written decision of the Zoning Board of Appeals stating the conclusions of the Board relative to the appeal, variance, or interpretation, the basis for the decision, and any conditions imposed.

SECTION 17.06. DECISIONS

- A. The decision and orders of the Zoning Board of Appeals shall be entered in the official record after they have been signed by the Chairperson and after written notice of the decision has been served either in person or by mail, upon the parties to the appeal, the Village Zoning

Administrator, and the Village Clerk. The Chairperson shall sign the decision within 10 days after the Zoning Board of Appeals reaches its final decision.

- B. The decision and orders of the Zoning Board of Appeals shall become effective 5 days after the decision and orders are entered on the official record unless the Board shall find immediate effect is necessary to preserve property or personal rights and shall so certify on the record.
- C. A copy of the official record of the appeal shall be made available to the parties to any appeal upon request and after payment of a reasonable fee, as set by the Village Council, sufficient to recover the costs of duplicating such material.
- D. The concurring vote of a majority of the full membership of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Zoning Board of Appeals is required to pass under a provision of this Ordinance, or to grant a variance from the requirements of this Ordinance.
- E. No request which has been denied by the Zoning Board of Appeals shall be submitted for reconsideration within a six-month period from the date of the original application unless the Zoning Administrator finds that at least one of the following conditions exist:
 - 1. The conditions involving all of the reasons for the original denial have been significantly altered; or
 - 2. New conditions or circumstances exist that change the nature of the original request.
- F. The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court within 30 days of the decision. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Enabling Act, as amended. The Court may affirm, reverse or modify the decision of the Zoning Board of Appeals or may remand the decision to the Zoning Board of Appeals for further hearings or action.

SECTION 17.07. VARIANCES

- A. The Zoning Board of Appeals, after a public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties in the way of carrying out the strict letter of the Ordinance relating to the construction, placement, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done.
- B. Non-Use Variance. A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
 - 1. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - a. Exceptional narrowness, shallowness or shape of a specific property; or
 - b. Exceptional topographic conditions or another extraordinary situation on the land, building or structure; or

- c. The use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties.
- 2. The condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
- 3. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed a substantial property right sufficient to warrant a variance.
- 4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- 5. The variance will not impair the intent and purpose of this Ordinance.
- 6. The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.
- C. Notice. Prior to acting on an application for a variance, a public hearing shall be held. Notice of the public hearing shall be provided pursuant to Section 18.03 of this Ordinance.
- D. Conditions. In granting a variance, the Zoning Board of Appeals may attach thereto such conditions regarding the location, character, and other features of the variance, as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance.
- E. Period of Validity. Any variance or exception granted by the Zoning Board of Appeals shall automatically become null and void after a period of 12 months from the date granted unless the applicant shall have taken substantial steps toward effecting or exercising the variance within said period; provided, however, that the Zoning Board of Appeals may extend such period for a further period of time up to one year upon application, without another hearing notice, provided that the original circumstances authorizing the variance have not changed.

CHAPTER 18. ADMINISTRATION AND ENFORCEMENT

SECTION 18.01. 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 Chapter 15 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 18.02. 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 18.03. 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:
 - C. The applicant;
 - 1. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request; and
 - 2. The occupants of all structures within 300 feet of the property that is the subject of the application or request.
 - 3. 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.
- D. 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 18.04. 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 18.03.
 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 planning 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 18.05. 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 A(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 C(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 C(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 C(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.

1. 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.
2. The Village may require a performance guarantee pursuant to Section 18.07 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 18.03 hereof.

SECTION 18.06. 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 18.07. 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 18.08. 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 18.09. 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 18.10. 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 18.11. 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 18.12. 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 18.13. 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 18.14. 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"), effective March 2006, and all amendments thereto prior to March 27, 2023, 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 March 27, 2023 and is ordered to take effect upon the expiration of seven (7) days following publication of adoption in *The Oceana Herald Journal*, 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.