

# **SHELBY COMMUNITY**

## ***ZONING ORDINANCE***

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**LSL Planning, Inc.**

*Community Planning Consultants*

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## **CHAPTER 1**

### **TITLE AND PURPOSE**

#### **SECTION 1.01 SHORT TITLE**

This Ordinance is hereby known as the "Shelby Community Zoning Ordinance."

#### **SECTION 1.02 ENACTING CLAUSE**

The Village of Shelby and the Township of Shelby, Oceana County, Michigan, Ordain:

#### **SECTION 1.03 PURPOSE**

The purpose of this Ordinance is to promote and safeguard the public health, safety, and general welfare of the people. 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**

- A. 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.
- B. 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.

- C. 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. For example, a "truck stop," as used in this Ordinance, shall not be interpreted to be the same as a "vehicle service station" since each is listed as a separate and distinct use.
- 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 Community" refers to both the Village and Township of Shelby. Where language applies only to the Village of Shelby or only to Shelby Township, the language of the Ordinance shall so state. Where no individual references are noted, the language will apply to both communities.
- 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 which 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 DEFINITIONS – A**

### **ACCESSORY BUILDING OR STRUCTURE**

A structure, building or portion of, supplementary and/or subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use. When an accessory building or structure is attached to a main building in a substantial manner, such as a common wall or roof, the accessory building or structure shall be considered a part of the main building.

### **ACCESSORY USE**

A use that is clearly incidental to, customarily found in connection with and located on the same zoning lot as the principal use to which it is related.

### **ADULT FOSTER CARE FACILITY**

A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), as amended, having as its principal function the receiving of adults for foster care. A facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.

- A. Adult Foster Care Family Home. A private residence in which the licensee is a member of the household and an occupant, providing foster care for five (5) or more days a week and for two (2) or more consecutive weeks with the approved capacity to receive six (6) or fewer adults.
- B. Adult Foster Care Small Group Home. An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.
- C. Adult Foster Care Large Group Home. An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

### **AGRICULTURE**

The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.

### **AGRI-TOURISM ESTABLISHMENT *(amended 2013)***

A commercial enterprise related to farming operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products; and which may include farm product retailing and sampling, educational and/or outdoor recreational programs, farm tours, horseback riding, corn mazes, ancillary food service facilities and similar activities.

## ALLEY

A public way not more than thirty-three (33) feet in width which affords a secondary means of access to abutting property but not being intended for general traffic circulation.

## ALTERATIONS

Any change, addition or modification in construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."

## ARCHITECTURAL FEATURES

Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

## AVERAGE GRADE

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

### SECTION 2.03 DEFINITIONS – B

#### BASEMENT OR CELLAR

A portion of a building having more than one-half ( $\frac{1}{2}$ ) of its height below grade. (See Figure I)

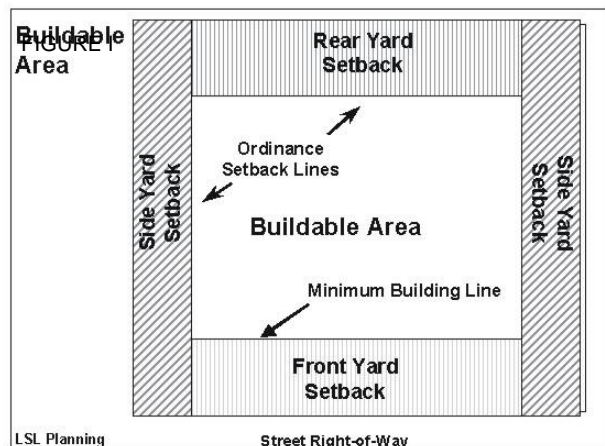
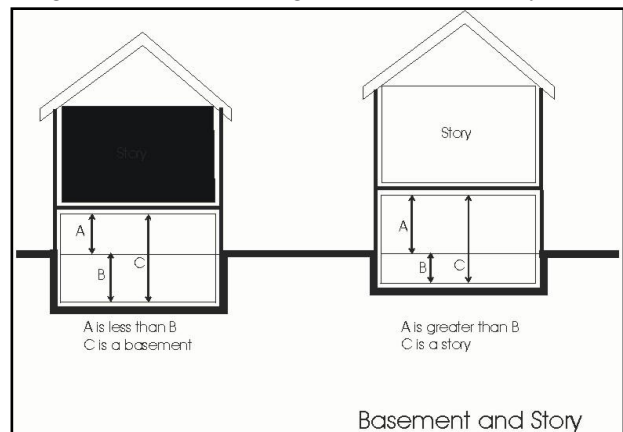
#### BED AND BREAKFAST ESTABLISHMENT

A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

#### BOARD OF APPEALS, or BOARD

As used in this Ordinance, this term means the Zoning Board of Appeals for the Village of Shelby and Shelby Township, except where specified.

#### BUILDABLE AREA



The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been met. (See Figure II)

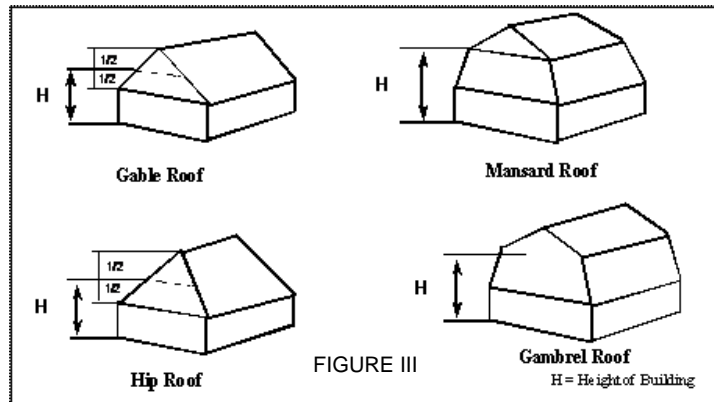
FIGURE II

## BUILDING

An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the enclosure of persons, animals, or chattels, or carrying on business activities or other uses. When any portion thereof is completely separated from every other part thereof by division of walls from the ground up, and without openings, each portion of the building shall be deemed a separate building.

## BUILDING HEIGHT

The building height is the average vertical distance measured from the established grade to the highest point of the roof surface if 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. (See Figure III)



## BUILDING INSPECTOR

A building inspector shall refer to the person or agency appointed by the Legislative Bodies as the Building Inspector for the Community.

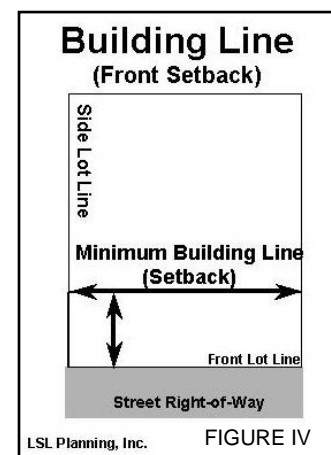
## BUILDING PERMITS

A building permit is the written authority as issued by the Building Inspector permitting the construction, moving, alteration or use of a building in conformity with the provisions of this Ordinance and the adopted Building Code.

## BUILDING SETBACK LINES

Lines marking the setback distance from the lot lines which establish the minimum permitted front, side, or rear yards. (See Figure IV)

- A. Front Building Setback Line. The line marking the setback distance from the front lot line which establishes the minimum front yard setback area.
- B. Rear Building Setback Line. The line marking the setback distance from the rear lot line which establishes the minimum rear yard setback area.
- C. Side Building Setback Lines. Lines marking the setback distance from the side lot lines which establish the minimum side yard setback area.



**SECTION 2.04     DEFINITIONS – C****CLEARING OF LAND**

The removal of vegetation from any site, parcel or lot except when land is cleared and cultivated for bona fide, forestry, agricultural or garden use in a district permitting such use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

**CLERK**

The Clerk of either the Village of Shelby or Shelby Township as appropriate.

**CLINIC**

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

**CLUB**

An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, hobbies, politics, or the like, but not operated for profit.

**COMMUNITY**

The term “Community” shall include both the Village of Shelby and the Township of Shelby.

**COMMISSION, PLANNING**

As used in this Ordinance, this term means the Village of Shelby and/or Shelby Township Planning Commission.

**CONDOMINIUM ACT**

Public Act 59 of the Michigan Public Acts of 1978, as amended.

**CONDOMINIUM UNIT**

That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.

**CONDOMINIUM PROJECT**

A plan or project consisting of not less than two condominium units established in conformance with the Condominium Act.

**CONSERVATION EASEMENT**

A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its

availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water.

#### CONVALESCENT OR NURSING HOME

A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. The home shall conform to, and qualify for, license under applicable State law.

#### COMMERCIAL STORAGE

A building or group of buildings in a controlled access or fenced area that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are not used on a daily basis.

#### COUNCIL

The term "Council" shall be used to refer to the Village Council of the Village of Shelby as the Legislative Body for the Village of Shelby, where specified.

### **SECTION 2.05     DEFINITIONS – D**

#### DAY CARE

- A.     Commercial Day Care Center. A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Day Care Center.
- B.     Family Day Care. A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.
- C.     Group Day Care. A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

#### DEED RESTRICTION

A restriction on the use of a lot or parcel of land that is set forth in the property deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant. Unless the Community has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the Community.

#### DRIVE THROUGH FACILITY

A commercial or other establishment that provides a driveway approach and service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle.

#### DRIVEWAY, PRIVATE

An improved or unimproved path extending from a public right-of-way or private road easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof.

#### DWELLING, OR DWELLING UNIT

A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

- A. Dwelling, Multiple Family. A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in the building. This definition includes three (3) family buildings, four (4) family buildings, and apartment houses.
- B. Dwelling, Two Family. A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in that building. It may also be termed a duplex.
- C. Dwelling, Single Family (Detached). A detached building used or designed for use exclusively by one (1) family. It may also be termed a one (1) family unit.

### **SECTION 2.06 DEFINITIONS – E**

#### ELDERLY HOUSING

A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under the Public Health Code, Act 368 of 1978, as amended, or a mental hospital for mental patients licensed under the Mental Health Code, Act 258 of 1974, as amended.

#### ENGINEER

The person or firm appointed by the Legislative Body as the Engineer for the Township or Village.

#### ERECTED

The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

#### ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance by public utilities or municipal departments or 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, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by those public utilities or municipal departments or commissions, or for the public

health or general welfare, but not including cellular telephone or communications towers, or buildings other than those buildings that are primarily enclosures or shelters of the above essential service equipment.

## EXCAVATING

Excavating shall be the removal of soil below the average grade of the surrounding land and/or road grade, whichever shall be highest, except common household gardening.

## SECTION 2.07 DEFINITIONS – F

### FAMILY

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit.
- C. This definition shall not include any society, club, fraternity, sorority, association, halfway house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

### FARM

Means 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 (*amended 2013*)

A structure and/or area of land used either temporarily or permanently for the outdoor display and retail sale of fruits, vegetables, flowers and other farm products, prepared foods and handmade arts and crafts including, but not limited to, pastries, bread, pottery and jewelry. Farm markets may also include picnic areas and vendors offering prepared foods for sale and consumption on site.

### FARM OPERATION

Means the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

- A. Marketing produce at roadside stands or farm markets.
- B. The generation of noise, odors, dust, fumes, and other associated conditions.
- C. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.
- D. Field preparation and ground and aerial seeding and spraying.
- E. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
- F. Use of alternative pest management techniques.
- G. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
- H. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
- I. The conversion from a farm operation activity to other farm operation activities.
- J. The employment and use of farm labor.

#### FENCE

Any permanent fence, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit.

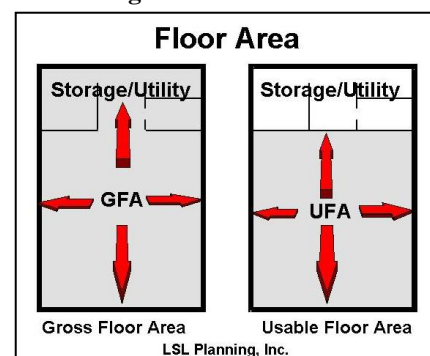
#### FLOOR AREA, GROSS (GFA)

- A. The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade. (See Basement.)
- B. Gross floor area shall not include attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements (except as provided above), breezeways, porches, or attached garages are not included.

#### FLOOR AREA, USABLE (UFA)

That area used for or intended to be used for the sale of merchandise or services, or used to serve patrons, clients, or customers; or area used in a dwelling unit for

**Figure 1: Floor Area**



living purposes. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

#### FRONTAGE

The horizontal distance between the side lot lines measured at the street right-of-way or easement line.

### **SECTION 2.08     DEFINITIONS – G**

#### GARAGE, PRIVATE

An accessory building, detached from or attached to a main building, designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

#### GRADE

The ground elevation established for the purpose of regulating the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building. (Grade shall also mean average grade, as defined herein.)

### **SECTION 2.09     DEFINITIONS – H**

#### HOME-BASED BUSINESS

A business operation based on the same premises as a single family dwelling which is clearly an incidental and secondary use of the dwelling, but conducted primarily in other locations off the premises. Examples of home-based businesses include construction contractors, well drilling, independent trucking, small-scale heavy equipment operator, or landscaping services.

#### HOME OCCUPATION

An occupation customarily conducted within a dwelling by its occupants as a subordinate use. Without limiting the foregoing, a single family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

#### HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

#### HOTEL

A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals. A hotel shall include accessory uses, including, but not limited to gift shops, restaurants, and other similar uses primarily oriented to the customers of the hotel.

#### HOUSEHOLD PETS

Any domesticated dog, cat or other animal kept for protection, companionship or hunting purposes; provided they are not kept, bred or maintained for commercial purposes.

## **SECTION 2.10     DEFINITIONS – I**

### **INOPERATIVE VEHICLES**

Any motor vehicle which is currently not capable of being started and safely and properly operated on the highway.

### **INTENSIVE LIVESTOCK OPERATIONS**

An agricultural operation that meets the following criteria:

- A. A total of seven hundred and fifty (750) dairy cattle (all classes); seven hundred and fifty (750) slaughter or feeder cattle, one thousand eight hundred (1,800) swine (all classes), one hundred thousand (100,000) poultry (all classes); five thousand (5,000) sheep or goats (all classes); or two hundred (200) horses (all classes); or
- B. A population per acre of at least four (4) dairy cattle, four (4) slaughter or feeder cattle, twenty (20) swine, seven hundred (700) poultry, ten (10) sheep or goats, or four (4) horses.

## **SECTION 2.11     DEFINITIONS – J**

### **JUNK**

For the purpose of this Ordinance, this term shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured.

### **JUNK YARD**

The term "junk yard" includes vehicle wrecking yards and salvage areas and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of vehicles or machinery or parts thereof for profit, but does not include uses established entirely within enclosed buildings.

## **SECTION 2.12     DEFINITIONS – K**

### **KENNEL**

Any lot or premises on which four (4) or more animals, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or for sale.

## **SECTION 2.13     DEFINITIONS – L**

### **LEGISLATIVE BODY**

The Township Board for Shelby Township; the Village Council for the Village of Shelby.

### **LOADING SPACE**

An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

## LOT

A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by the Condominium Act, designed and intended for separate or limited ownership and/or use.

## LOT AREA

The total horizontal area within the lot lines of a lot excluding road right-of-way

## LOT, CORNER

A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less.

## LOT COVERAGE

The part or percent of the lot occupied by buildings or structures.

## LOT DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a double frontage lot.

## LOT, DOUBLE FRONTAGE (THROUGH)

A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots in the plat in the request for zoning permit. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where the structures presently front.

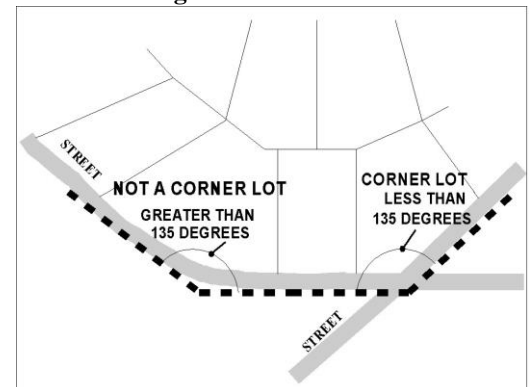
## LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street.

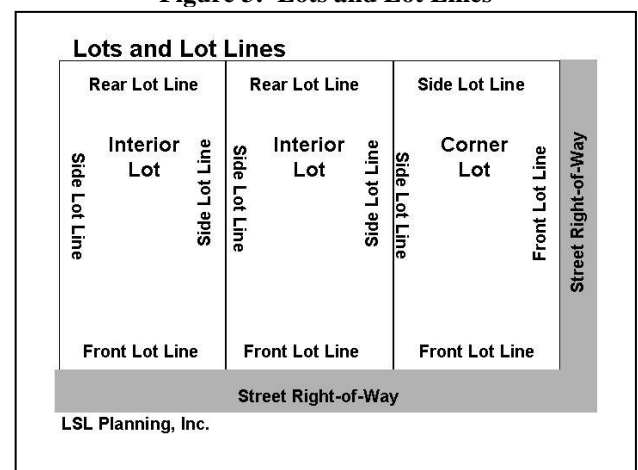
## LOT, WATERFRONT

A lot having frontage directly upon a lake, river or otherwise formed impoundments of water.

**Figure 2: Corner Lot**



**Figure 3: Lots and Lot Lines**



## LOT LINES

The property lines bounding the lot.

- A. **Front Lot Line.** In the case of an interior lot, abutting upon one (1) public or private street, the front lot line shall mean the line separating the lot from a street right-of-way. In the case of a corner or double frontage lot, all lot lines abutting a street shall be considered a front lot line.
- B. **Rear Lot Line.** Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. A corner lot or a double frontage lot does not have a rear lot line. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.
- C. **Side Lot Line.** Any lot line that is not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

## LOT OF RECORD

A lot which lawfully exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lawful lot or parcel described by metes and bounds, the description of which has been so recorded as required by law.

## LOT WIDTH

The horizontal distance between the side lot lines, measured as nearly as possible at right angles to the side lot lines at all points between the front building setback line and the rear building setback line.

### SECTION 2.14 DEFINITIONS – M

#### MAIN BUILDING

A building in which is conducted the principal use of the lot upon which it is situated.

#### MAJOR ROAD

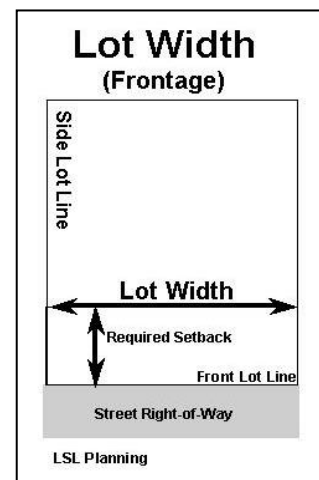
Roads that gather traffic from local streets and/or move larger volumes of traffic through the Community including:\*

#### MANUFACTURED HOME

A residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long-term occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected.

#### MANUFACTURED HOME COMMUNITY

**Figure 4: Lot Width**



A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual, nonrecreational 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 incident to the occupancy of a manufactured home.

#### MANUFACTURED HOME SPACE

A plot of ground within a manufactured home community designed for the accommodation of one (1) manufactured home.

#### MANUFACTURING OR ASSEMBLY FACILITY (*amended 2013*)

Establishments engaged in a series of operations that transform materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, and such related activities as storage, packaging, shipping and scrapping.

#### MASTER PLAN

The Master Plan currently adopted by the Shelby Community, including graphic and written materials, indicating the general location for streets, parks, public buildings, and all physical development of the Shelby Community, and includes any unit, part, or amendment to the Plan.

#### MIGRANT AGRICULTURAL LABOR HOUSING

A tract of land and all, buildings and other structures pertaining thereto which is established, occupied or used as living quarters for migratory workers engaged in agricultural activities including related food processing as licensed under the provisions of Michigan P.A. 368 of 1978, as amended.

#### MOTEL

A series of attached, semi-attached, or detached rental units providing overnight lodging for transients, open to the traveling public for compensation. A motel shall not include accessory uses, such as gift shops, restaurants, and other similar uses.

#### MOTOR HOME

A motorized vehicular unit primarily designed for temporary dwelling in connection with travel and/or recreational usage. This term does not include manufactured homes.

### **SECTION 2.15     DEFINITIONS – N**

#### NATURAL FEATURES

Includes but is not limited to: soils, wetlands, woodlots, overgrown fence rows, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

**NON-CONFORMING BUILDING**

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance in the Zoning District in which it is located.

**NON-CONFORMING LOT OF RECORD**

A lot, whether platted or unplatted, that conformed with all zoning lot requirements at the time of recording but which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance.

**NON-CONFORMING USE**

A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, and that does not conform to the use regulations of the Zoning District in which it is located.

**NON-RESIDENTIAL DISTRICT**

Non-Residential District shall refer to the C-1, C-2, C-3 and IND Zoning Districts, as described in this Ordinance.

**SECTION 2.16 DEFINITIONS – O****OPEN AIR BUSINESS** (*amended 2013*)

Uses operated for profit substantially in the open air, including, but not limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools, and similar activities.
- C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

**OPEN SPACE DEVELOPMENT**

A development which is permitted to have smaller lot sizes in return for protected open space.

**OPEN SPACE**

Land used for recreation, resource protection, amenity, and/or buffers, and not containing any main building or structure.

- A. Open Space, dedicated. Common open space dedicated as a permanent recorded easement.
- B. Open space, usable. That portion of the common open space that meets the minimum dimensions as required by this Ordinance and which due to its slope, drainage characteristics and soil conditions can be used for recreation.

## OUTDOOR STORAGE

The storage of any materials or objects outside the confines of a building.

## **SECTION 2.17     DEFINITIONS – P**

### PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

### PARKING SPACE

An off-street space of at least one hundred sixty-two (162) square feet exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

### PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed primarily on the premises.

### PLANNED UNIT DEVELOPMENT

A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

### PLANNING COMMISSION

This term shall mean the Shelby Township Planning Commission or Village Council of the Village of Shelby, acting as the Planning Commission, where specified.

### PLOT PLAN

A drawing required by the Zoning Ordinance to insure that a proposed land use or activity is in compliance with the Ordinance. It is a lesser site plan and used to provide information for a zoning permit for such things as single family home development, additions to homes, accessory buildings and fences

### PORCH, ENCLOSED

A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

### PORCH, OPEN

A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

## PRINCIPAL USE

The primary purpose for which land or premises, or a building thereon, is designed, arranged, or intended, for which it is occupied, or maintained, let, or leased.

## PUBLIC UTILITY

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, or water services, not including wireless telecommunications providers or wind energy conversion facilities.

## SECTION 2.18 DEFINITIONS – R

### RECREATION VEHICLE OR EQUIPMENT

A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. These vehicles shall include boats, airplanes, special purpose vehicles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

### RESIDENTIAL DISTRICT

Residential District shall refer to the AG, RR, R-1, R-2, R-3 and R-4 Zoning Districts, as described in this Ordinance.

### RETAIL ESTABLISHMENT (*amended 2013*)

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

### ROADSIDE STAND

A farm building or separate structure used for the display or sale of agricultural products grown on the premises upon which the stand is located.

## SECTION 2.19 DEFINITIONS – S

### SATELLITE DISH ANTENNA, OR DISH ANTENNA

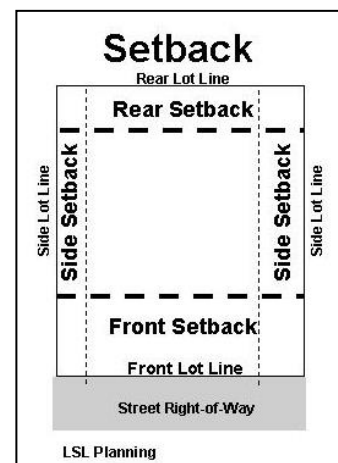
An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

### SETBACK

The distance required to comply with front, side or rear yard open space provisions of this Ordinance.

### SEXUALLY ORIENTED BUSINESSES

Figure 5: Setback



A. Adult Bookstore or Adult Video Store: An adult bookstore or adult video store means a commercial establishment which has a substantial portion of its stock in trade for sale or rent, for any form of consideration, any one or more of the following items:

1. Books, magazines, periodicals or other printed matter, or photographs, pictures, films, motion pictures, video cassettes, video tapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs), greeting cards, or video reproductions, slides, or other visual representations or electronic media or other merchandise which is predominantly distinguished or characterized by an emphasis on depiction or description of “specified anatomical areas” or “specified sexual activities”]; or
2. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”.

A commercial establishment may have other stock in trade which does not involve the offering for sale or rent of merchandise depicting or describing “specified anatomical areas” or “specified sexual activities” and still be categorized as an adult bookstore or adult video store. Such other stock in trade will not serve to exempt such a commercial establishment from being characterized as an adult bookstore or adult video store so long as a substantial portion of the commercial establishment’s stock in trade is the offering for sale or rental for consideration the specified merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities”.

The phrase “substantial portion of its stock in trade” shall be construed with reference to all relevant factors, including, but not limited to one or more of the following:

1. Twenty-five percent (25%) or more of the commercial establishment’s gross sales area is used for the sale of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities”. For purposes of this Section, gross sales area is defined as the floor area within the inside perimeter of the exterior walls of the commercial establishment, exclusive of vent shafts and courts, storage, stock, office, and shipping areas, without deduction for corridors, display fixtures, stairways, public restrooms closets, the thickness of interior walls, columns or other features.
2. Twenty-five percent (25%) or more of the commercial establishment’s stock in trade (inventory) is comprised of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities”.
3. Twenty-five (25%) or more of the commercial establishment’s gross revenues are generated by the sale or rental of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities”.

B. Adult Cabaret: An adult cabaret means a nightclub, restaurant, or other similar commercial establishment which regularly features or displays:

1. Persons who appear in a state of nudity; or

2. Live performances predominantly distinguished or characterized by an emphasis on the exposure of any “specified anatomical areas” or “specified sexual activities”; or
  3. Films, motion pictures, video cassettes, videotapes, any material in digital format (including, but not limited to compact discs (CDs) or digital video discs (DVDs)), slides, other photographic reproductions or visual media which are predominantly distinguished or characterized by an emphasis on the depiction or description of an “specified anatomical areas” or “specified sexual activities”.
- C. Adult Motion Pictures Theater: An adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, videotapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], slides, or similar photographic reproductions or visual media are regularly featured which are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified anatomical areas” or “specified sexual activities”. This definition includes, but is not limited to, commercial establishments that offer individual viewing booths.
- D. Massage establishment: any building, room, place or establishment where body massage is regularly practiced on the human body, to club members or to the general public, for a charge. The term “massage establishment” includes, but is not limited to massage parlors, health clubs, sauna baths and steam baths if massages are performed at those locations. The term “massage establishment” shall not include:
1. Hospitals, nursing homes, medical clinics;
  2. The office of a state-licensed physician, surgeon, physical therapist, osteopath or chiropractor;
  3. The establishment of a barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this state, or another state within the United States, or the federal government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties in which massages are administered only to the scalp, face, neck, hands, feet or shoulders;
  4. The establishment of a myomassologist who is a current member of the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification; or
  5. A nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational or athletic facility for the welfare of the residents of the area.
- E. Sexually Oriented Business: An adult bookstore, video store, or novelty store, adult cabaret, adult motion picture theater, or a commercial establishment that regularly features the sale, rental, or exhibition for any form of consideration, of books, films, videos, DVDs, magazines, or other visual representation of live performances which are characterized by an emphasis on the exposure of display of specified sexual activities or specified anatomical areas. For purposes of this Ordinance, an adult physical culture business shall also be considered as a sexually oriented in business.
- F. Specified Anatomical Areas:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed; and

2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

G. Specified Sexual Activities:

1. The fondling of any or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
3. Excretory function as part of in connection with any of the activities set for in (1) or (2) above.

## SHORELINE

The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

## SIGNS (Definitions relating to):

Sign: Any individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained to the out of doors in view of the general public for identification, advertisement or promotion of the interests of any person.

- A. Area: The total square footage of a sign face exposed to public view.
- B. Awning Sign: A sign which is part of, hung from the underside of, or attached to, a marquee, canopy, or other covered structure projecting from and supported by a building and does not project horizontally beyond or vertically above the marquee, canopy, or covered structure.
- C. Banner: An unsecured sign made of natural, flexible, synthetic or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flags.
- D. Billboard: A sign structure which exceeds one hundred (100) square feet advertising a service, commodity or establishment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located.
- E. Directional Sign: Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance" and "exit".
- F. Electronic Message Board: A sign on which copy changes automatically on a lamp bank or through mechanical means, e.g., electrical or electronic time and temperature units.
- G. Freestanding Sign: Any non-movable sign not affixed to a building.
- H. Height: The height of sign shall mean the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.
- I. Illuminated Sign: Any sign designed to give forth artificial light, or designed to reflect any light given from any source which is intended to cause light or reflection.
- J. Monument Sign: A freestanding sign affixed to the ground with a full footing where the display surface is less than four (4) feet above the grade to the bottom of the display area.

- K. Off-Premise Sign: A sign located on a different parcel of land or lot or premise than where the business, product, service, event, or person or subject is being advertised.
- L. On-Premise Sign: A sign located on the parcel of land or lot advertising a business, product, service, event, person or subject being offered on the parcel of land or lot.
- M. Pennant: A small, often triangular, tapering flag used in multitudes as a device to call attention to a land use or activity.
- N. Pole Sign: A freestanding sign which is supported by one (1) or more uprights in permanent footings with all parts of the display surface of the sign eight (8) feet or more above the grade at the base of the sign.
- O. Political Sign: A temporary sign used in connection with an official of the Community, school district, county, state, or federal election or referendum.
- P. Portable (Temporary): A sign which is not permanently affixed to a building (wall sign), structure (pole sign) or the ground (monument sign). Portable or temporary signs include without limitation signs supported on wooden posts, mobile chassis, motor vehicle, banners, flags, and pennants.
- Q. Real Estate Sign: A sign advertising that the premises on which it is located is for sale, lease, or rent.
- R. Residential Entranceway Sign: A permanent structure including but not limited to walls, columns and gates, marking entrances to single-family subdivisions or multiple housing projects by name, symbol, or otherwise.
- S. Roof: A sign which is erected, constructed and maintained upon or above the roof, or parapet wall of a building which is wholly or partially supported by said building.
- T. Window: A sign that is applied or attached to the exterior or interior of a window or located in such a manner within a building that it can be seen from the exterior of the structure through a window.
- U. Wall: 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 which does not project more than twelve (12) inches from the building or structure.

#### SPECIFIED ANATOMICAL AREAS

Specified anatomical areas are defined as less than completely and opaquely covered:

- A. Human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

#### SPECIFIED SEXUAL ACTIVITIES

Specified sexual activities are defined as:

- A. Human genitals in a state of sexual stimulation or arousal;

- B. Acts of human masturbation, sexual intercourse or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

#### STATE LICENSED RESIDENTIAL FACILITY

A residential care facility licensed by the State of Michigan under Act 218 of 1979 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care for persons in need of that supervision or care. This term does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

- A. Family Care Facility: A state licensed residential facility providing resident services to six (6) or fewer persons.
- B. Group Home Care Facility: A state licensed residential facility providing resident services to fewer than six (6) persons.

#### STORY

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over one-half (½) of its height is above the level from which the height of the building is measured, or, if it is used for business purposes.

#### STORY, HALF

That part of a building between a pitched roof and the uppermost full story, the part having a floor area which does not exceed one-half (½) the floor area of a full story, provided the area contains at least two hundred (200) square feet and a clear height of at least seven (7) feet, at its highest point.

#### STREET, PRIVATE

A privately owned and maintained thoroughfare meeting the requirements of this Ordinance and providing access to two (2) or more individual lots or parcels.

#### STREET, PUBLIC

A thoroughfare including any easements or rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.

#### STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

#### SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

## **SECTION 2.20     DEFINITIONS – T**

### **TEMPORARY BUILDING OR USE**

A structure or use permitted by the Zoning Administrator in accordance with the requirements of this Ordinance during periods of construction of a main building or for special events.

### **TOWNSHIP**

The term "Township" shall refer to Shelby Township, Oceana County.

### **TOWNSHIP BOARD**

The words, "Township Board" shall mean the Shelby Township Board.

## **SECTION 2.21     DEFINITIONS – U (Reserved for Future Use)**

## **SECTION 2.22     DEFINITIONS – V**

### **VARIANCE, USE**

A modification of the literal provisions of the Zoning Ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the Ordinance would cause unnecessary hardship for the property owner due to circumstances unique to the property. A use variance permits a use of land that is otherwise not allowed in that District.

### **VARIANCE, NONUSE OR DIMENSIONAL**

A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the zoning ordinance would cause practical difficulty owing to circumstances unique to the individual property.

### **VEHICLE REPAIR, MAJOR**

Any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines or trailers; collision service, such as body, frame or fender straightening and repair; overall painting and vehicle rust-proofing; or steam cleaning.

### **VEHICLE REPAIR, MINOR**

Any use whose primary activity involves minor repair and maintenance of passenger vehicles and light trucks and vans, including, but not limited to vehicle detailing, oil change establishments, audio or cellular installation, and auto glass installation and repair, but not including fuel sales.

#### VEHICLE SERVICE STATION

A building or premises to be used for the retail sale of gasoline or other motor fuel for the propulsion of motor vehicles and accessory sales and installation of vehicle accessories, including, but not limited to, tires, batteries, oil, and similar products.

#### VEHICLE WASH ESTABLISHMENT

A building, or portion thereof, the primary purpose of which is washing motor vehicles.

#### VILLAGE

The term “Village” shall be used to refer to the Village of Shelby, Oceana County.

### **SECTION 2.23     DEFINITIONS – W**

#### WETLAND

Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

#### WIRELESS TELECOMMUNICATION TOWER

A structure of lattice or monopole framework to which an antenna may be attached for the transmission and /or reception of radio, television, satellite or microwave signals that facilitates wireless communications including cellular, enhanced specialized mobile radio (ESMR), personal communication, or similar services, along with associated equipment necessary to operate these facilities.

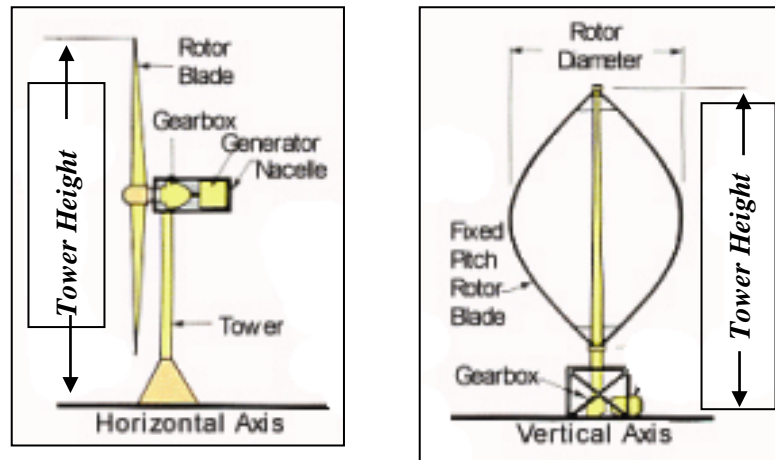
#### WIRELESS COMMUNICATION ANTENNA

The device for transmitting and/or receiving radio, television, satellite, cellular, enhanced specialized mobile radio, personal communication, microwave, or similar transmissions.

#### WIND ENERGY CONVERSION SYSTEM (WECS) definitions:

- A.     Wind Energy Conversion System (WECS) - shall mean a combination of:
1.     A surface area, either variable or fixed, for utilizing the wind for electrical powers; and
  2.     A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
  3.     The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
  4.     The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and

5. Building or equipment accessory thereto.
- B. Survival wind speed: The maximum wind speed, as designated by the WECS manufacturer, at

**Figure 6: WESC Tower Height**

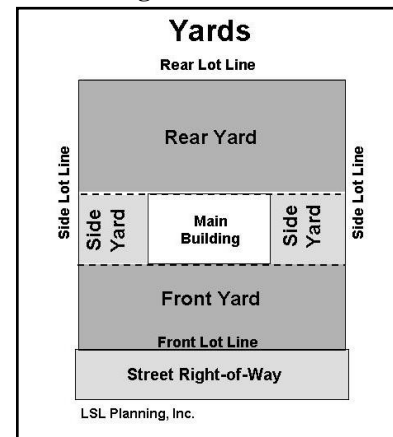
which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

- C. Wind farm: Clusters (2 or more) of WECS towers placed upon land with the intent to sell or provide electricity to others. The towers may or may not be owned by the owner of the property upon which the towers are placed.
- D. Single WECS for commercial purposes: A WECS tower placed upon land with the intent to sell or provide electricity to others. The tower may or may not be owned by the owner of the property upon which the tower is placed.
- E. Interconnected WECS: A WECS, which is electrically connected to the local electrical power utility system and can feed power back into the local electrical power utility system.
- F. WECS: A structure and equipment used to determine the potential for the placement of a WECS.
- G. WESC tower height:
  1. Horizontal axis wind turbine rotors: The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades;
  2. Vertical axis wind turbine: The distance between the ground and the highest point of the WECS.

## SECTION 2.24 DEFINITIONS – Y

### YARD

A yard is an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

**Figure 7: Yards**

- A. A front yard is an open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.
- B. A rear yard is an open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
- C. A side yard is an open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

## **SECTION 2.25 DEFINITIONS – Z**

### **ZONING ACT**

The Michigan Zoning Enabling Act, Act 110 of 2006 of the Public Acts of Michigan, as amended.

### **ZONING ADMINISTRATOR**

The person(s) designated by the Legislative Body to administer the provisions of this Zoning Ordinance.

### **ZONING BOARD OF APPEALS, OR BOARD**

The Zoning Board of Appeals of Shelby Township or the Village of Shelby, where specified.

## **CHAPTER 3 GENERAL PROVISIONS**

### **SECTION 3.01     APPLICATION OF REGULATIONS**

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

### **SECTION 3.02     CLEARING OF LAND**

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

### **SECTION 3.03     EXCAVATIONS**

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

- A. When the earth removal is incidental to an operation for which a building permit has been issued by the designated public official;
- B. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
- C. When the earth removal involves less than five hundred (500) cubic yards;
- D. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;
- E. The soil removal will not be in violation of any other Section of this Ordinance, other Township or Village ordinance, Natural Resource and Environmental Protection Act of 1994 or any other applicable state or federal law.

### SECTION 3.04 MAIN BUILDING OR PRINCIPAL USE

Except as may otherwise be noted in this Ordinance, each parcel shall contain only one (1) main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple family dwellings, contained within a single, integrated complex as demonstrated by sharing parking, signs, access, and other similar features which, in the opinion of the Zoning Administrator, form a unified function and appearance.

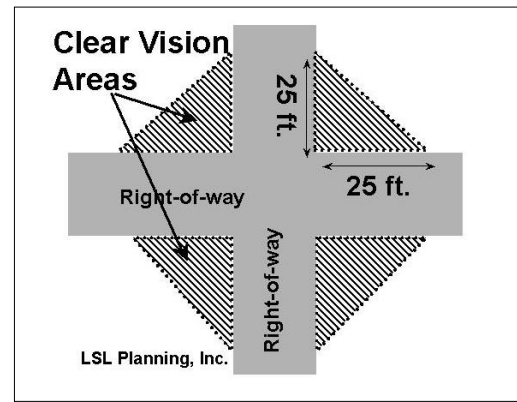
### SECTION 3.05 STREET ACCESS

Any lot created after the effective date of this Ordinance shall front upon and have its minimum width upon a public street, or private street easement meeting the requirements of Section 3.27.

### 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 mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended.
- B. This Section shall not prohibit the placement of shrubbery or other materials less than thirty (30) inches in height at maturity.
- C. No vegetation shall be maintained in any setback area of any District, which, in the opinion of the Zoning Administrator, will obstruct the view from vehicles entering or leaving the site from driveways or adjacent roadways.

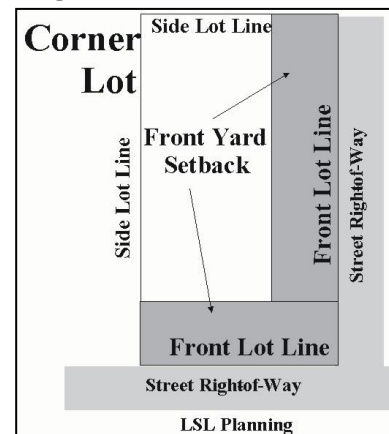
Figure 8: Clear Vision



### SECTION 3.07 SETBACK MEASUREMENTS

- A. 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.
- B. On waterfront lots, the front yard shall be considered as the portion of the lot facing the waterfront. A waterfront lot shall not be considered a through lot.
- C. Side lot setbacks shall be measured from the property line to the drip line 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 and two (2) side lot lines and no rear lot line.

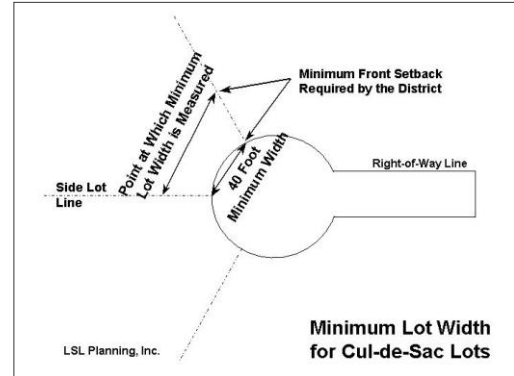
Figure 9: Corner Lot Setbacks



### SECTION 3.08 WIDTH TO DEPTH RATIO

- A. No lot shall be created with a lot depth that exceeds four (4) times its width in the Township. No lot shall be created with a lot depth that exceeds three (3) times its width in the Village.
- B. The Legislative Body, after recommendation by the Planning Commission, may permit the creation of a lot or parcel which does not comply with this Section to be used for the construction of a building. In determining whether to grant this approval, the Legislative Body shall first find that the greater depth is necessitated by conditions of the land in question, such as topography, road access, soils, wetlands, or floodplain, and that creation or use of the lot will not conflict with other ordinances and regulations, unless an appropriate variance is received from any other ordinances or regulations.
- C. 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. These lots shall have a minimum frontage of forty (40) feet at the front property line.

Figure 10: Minimum Lot Width for Cul-de-Sac Lots



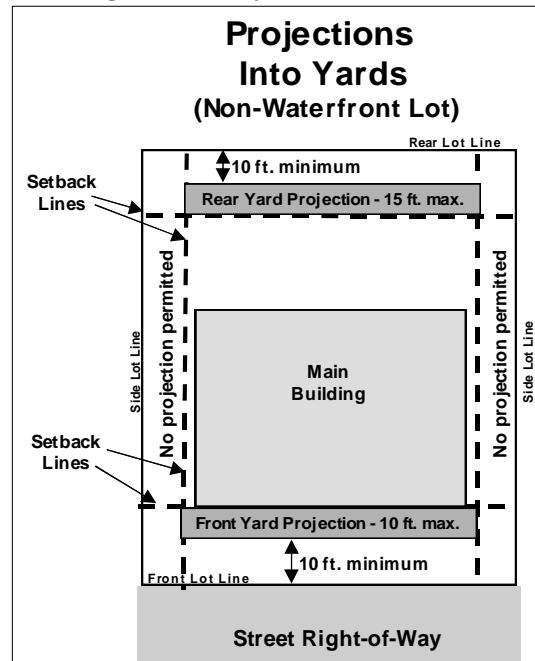
### SECTION 3.09 HEIGHT EXCEPTIONS

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, mechanical equipment, scenery lofts, parapet walls up to four (4) feet 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:
1. May project a maximum of four (4) feet into a required front or rear yard setback area; and shall not project into the required side yard setback.
  2. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on all sides, unenclosed, and uncovered and extend more than six (6) inches above the average grade:
    - a. May project a maximum of ten (10) feet into a required front yard setback area.
    - b. May project a maximum of fifteen (15) feet into a required rear yard setback area.

Figure 11: Projections into Yards



- c. Shall not project into a required side yard setback area.
  - d. Shall not be placed closer than ten (10) feet to any front or rear lot line.
3. If these structures are permanently enclosed on any side, covered in any manner, or otherwise attached to the main building, they shall be considered part of the main building.

### **SECTION 3.11 ACCESSORY BUILDINGS AND STRUCTURES (amended 5/09)**

- A. Unless associated with a bona-fide agricultural operation, no accessory building shall be permitted on any lot which does not contain a main building unless a permit for a main building has also been secured for that lot.
- B. Attached accessory buildings and structures that are structurally part of the main building shall conform to the setback requirements of the main building.
- C. Detached accessory buildings shall be a minimum of ten (10) feet from any other building or structure.
- D. Detached accessory buildings in the Village shall be a minimum of five (5) feet from rear or side property lines and shall not be permitted in the front yard. Detached accessory buildings in the Township shall be set back fifty (50) feet from any property line.
- E. In the Township, accessory building(s) shall not be erected in any required front yard. In the Village, accessory buildings are not permitted in the front yard.
- F. In the Village Residential Districts, accessory buildings shall be of residential construction and shall be compatible with surrounding residential homes. Sheet metal walls are prohibited. Accessory buildings under two hundred (200) square feet are exempt (amended July 2007)
- G. In the Village, no more than one (1) accessory building shall be located on any parcel within any Zoning District, except that two (2) may be permitted when one (1) is a garage or other shelter for vehicles belonging to the residents.
- H. No accessory building shall be used in any part for residential dwelling or sleeping purposes.
- I. Manufactured homes, semi-trailers or other vehicles shall not be used as accessory storage structures.
- J. No accessory building shall occupy any portion of a required greenbelt or buffer in any District.
- K. 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.
- L. A zoning permit shall be secured prior to the placement of any accessory building.
- M. The maximum height of accessory structures in the Township shall be twenty four (24) feet.
- N. The total square footage of all detached accessory buildings associated with residential uses in the Village shall not exceed the following:

Minimum Lot Size	Maximum Square Footage (GFA)	Maximum Height (ft)
3,000 sq. ft.	384 sq ft (e.g. 16 x 24)	14
5,000 sq. ft.	672 sq ft (e.g. 24 x 28)	14
10,000 sq. ft.	864 sq ft (e.g., 24 x 36)	18
15,000 sq. ft.	1,080 sq ft (e.g. 30 x 36)	20
20,000 sq. ft.	1,200 sq ft (e.g., 30 x 40)	24
35,000 sq. ft.	1,600 sq ft (e.g., 40 x 40)	28
1 acres +	2,000 sq ft (e.g., 40 x 50)	28

### SECTION 3.12 SATELLITE DISH ANTENNAS

- A. These regulations shall not apply to dish antennas that are one (1) meter or less in diameter in Residential Districts or two (2) meters or less in diameter in Nonresidential Districts.
- B. In all Districts, the following restrictions shall apply:
1. The dish antenna shall be permitted in the side and rear yard or mounted on top of a building, and securely anchored.
  2. The nearest part of the antenna shall be at least five (5) feet from any property line.
  3. The height shall not exceed the height restrictions in the District in which the proposed device is to be located.
  4. No portion of the dish antenna shall contain any name, message, symbol, or other graphic representation intended for the purpose of advertising.
  5. A site plan shall be prepared and submitted to and approved by the Zoning Administrator for approval prior to issuance of a building permit. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.
  6. The Zoning Administrator may waive these requirements where they make the dish unusable.

### SECTION 3.13 SWIMMING POOLS

- A. Any pool 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 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 shall not be located in the front yard.
- C. Each pool shall be enclosed by a minimum five (5) foot high stockade fence, wall, or other structure or device, sufficient to make the pool 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. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

### **SECTION 3.14 FENCES**

- A. 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.
- B. In the Village 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 at the property lines in any residential zoning district. Razor wire is prohibited throughout the Community.
- C. Unless specifically provided for elsewhere in this Ordinance, 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 within the front yard. No fence may exceed a height of six (6) feet behind the front building line of main buildings in Residential Districts or eight (8) feet in height behind the required front setback line in commercial and industrial districts.
- D. In the Village, 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.
- E. It shall be unlawful to construct any fence in any public right-of-way or across a utility easement.
- F. Fences may be erected on the property line.
- G. 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.

### **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 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. If the dwelling unit is a manufactured home:

1. The manufactured home must have completed inspection reports that are traceable to the unit number (serial number) of the home meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or
  2. Found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy. The manufactured home shall be installed with the wheels and towing mechanism removed.
  3. In the Township units shall have a minimum of fourteen (14) feet in width. In the Village, units shall have a minimum width of twenty (20) feet. All units shall be no more than eight (8) years old. Except that in the R-4, Manufactured Home Community District, where there are existing dwelling units of under twenty (20) feet in width they may be replaced with a newer structure of under twenty (20) feet in width, provided:
    - a. Side yard setbacks are a minimum of twelve feet total with a four (4) foot minimum;
    - b. Front setback shall be a minimum of ten (10) feet;
    - c. The rear setback shall be a minimum of twenty (20) feet.
  4. In the Village, all units shall have, at a minimum a four (4) foot crawl space under the entire unit. In the Township, at a minimum, commercial grade skirting shall be used.
- C. 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 Community, and with applicable federal or state standards or regulations for construction.
- D. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the District in which it is located.
- E. In the Village the dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the adopted building code. In the Township the dwelling unit may have skirting provided it is aesthetically compatible with the structure.
- F. 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.
- G. In the Village, the dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty (20) feet at time of manufacture, placement or construction. In the Township, dwelling units may be not less than fourteen (14) feet wide.
- H. 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.
- I. 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.
- J. 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 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.

- K. In the Village the dwelling unit shall be connected to public sewer and water supply systems. In the Township the dwelling unit shall be connected to public sewer and water supply systems or to private facilities for potable water and disposal of sewage approved by the Oceana County Health Department.
- L. 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.
- 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 Community according to the provisions contained in Chapter 7 of this Ordinance except to the extent required by state or federal law.

### **SECTION 3.16 TEMPORARY USES OR BUILDINGS**

- A. Upon application, and as noted below, the Zoning Administrator may issue a permit for the following temporary buildings or uses. Each permit for these uses shall specify a location for the building or use and shall be valid for a period of not more than twelve (12) calendar months. Permits may be renewed by the Zoning Administrator for one (1) additional successive period of six (6) calendar months or less at the same location and for the same purpose, provided that the reason for the extension is due to circumstances beyond the immediate control of the applicant for the permit extension.
  - 1. Temporary office building or construction yard incidental and necessary to construction at the site where located.
  - 2. Temporary sales office or model home incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, the temporary office or model home shall be removed when fifty percent (50%) or more of the lots or units have been sold or leased.
- B. Seasonal Uses (Village Only)
  - 1. The Zoning Administrator may issue a permit for the temporary sale of merchandise in commercial districts related to a seasonal or periodic civic event, such as a festival. Seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities, but shall not include roadside stands.
  - 2. In considering a request for a temporary permit, the Zoning Administrator must determine that the operation of the use is seasonal in nature and will not be established as a permanent use. The Zoning Administrator will also determine that adequate off-street parking is available to accommodate the use.
  - 3. Each permit shall be valid for a period of not more than one (1) calendar month within any consecutive six (6) month period, except that the permit may be renewed by the Zoning Administrator for up to one (1) additional successive month, provided the season or event to which the use relates is continued.
- C. In considering authorization for all temporary uses or buildings, the Zoning Administrator shall consider the following standards and may attach reasonable conditions to temporary uses or structures to ensure that the standards and requirements of this Section are met. The Zoning Administrator shall determine that:

1. The use or structure will not have an unreasonable detrimental effect upon adjacent properties;
  2. The use or structure is reasonably necessary for the convenience and safety of the construction proposed;
  3. The use or structure does not adversely impact the character of the surrounding neighborhood; and
  4. Access to the use area or structure is located at a safe location.
- D. The Zoning Administrator may, at his discretion, submit a request for a temporary use or building to the Planning Commission for a final decision. In making its decision, the Planning Commission shall consider the same standards as enumerated in C, above.
- E. A performance guarantee may be required to insure compliance with the terms of the temporary use permit.

### **SECTION 3.17 ILLEGAL DWELLINGS**

- A. 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 Community. Buildings erected as garages or accessory buildings shall not be occupied for dwelling purposes.
- B. The use of a tent or recreational vehicle may be permitted as an accessory use to a main building but in no case shall a tent or recreational vehicle be used for migrant labor housing. See also Section 3.30.

### **SECTION 3.18 DAMAGED BUILDINGS**

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

### **SECTION 3.19 DEMOLITION PERMITS (Village Only)**

No buildings shall be razed until a zoning permit has been obtained from the Zoning Administrator who may require a plot plan and performance bond in an amount set by the Legislative Body. This bond shall be conditioned on the applicant completing the razing within a reasonable period as prescribed in the

permit and complying with any requirements of the Building Code, including, but not limited to, requiring all debris being eliminated from the site rather than being buried in a collapsed foundation, filling excavations, sealing wells or eliminating septic tanks, and proper termination of utility connections.

### **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.

### **SECTION 3.21      STORAGE AND REPAIR OF VEHICLES**

The carrying out or repair, storage, restoration and maintenance procedures or projects on personal vehicles in any District shall be subject to the following limitations:

- A. In the Township, procedures or projects which require the vehicle to be immobile or inoperable in excess of thirty (30) days within any twelve (12) month period shall be carried out either in the rear yard or within an enclosed building. Vehicles in long term storage shall be stored to prevent oil, gas, antifreeze and battery acid from being released into the environment.
- B. In the Village, inoperable or unlicensed vehicles, boats, trailers, motorcycles, and vehicle parts shall be stored in a completely enclosed structure

### **SECTION 3.22      ACCUMULATION OF WASTE**

The accumulation of waste, rubbish, garbage, refuse, trash; abandoned, discarded or unused objects, machinery or equipment such as furniture, stoves, refrigerators, freezers, cans or containers; or other deleterious substance on the premises of private residences or properties, commercial institutions, and in the roadway creates blight and greatly increases danger of fire, and spread of infections and diseases and is expressly prohibited by this Ordinance.

### **SECTION 3.23      KEEPING OF ANIMALS (Township Only)**

- A. No more than a combined total of six (6) adult cats or dogs six (6) months of age or older shall be kept or housed in a dwelling unit.
- B. One (1) horse, cow or pig may be permitted on a lot with a minimum of two (2) acres. For every animal thereafter, an additional one-half (1/2) acre shall be provided.
- C. Where animals other than house pets of the owner or occupant of the premises are kept or allowed outside, a fence of adequate construction to keep all animals from leaving the premises shall be provided and properly maintained.
- D. Livestock holding areas shall be a minimum of five (5) feet from any property line.
- E. Animal waste shall be managed so as not to be a hazard to health or a nuisance to neighbors.

### **SECTION 3.24      HOME OCCUPATIONS**

- A. No person other than the resident occupants shall be engaged in the home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home occupation shall be operated in its

entirety within the principal dwelling, but shall not, in any case, exceed a total floor area of twenty five percent (25%) of the gross floor area of the dwelling unit.

- C. 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 the Residential District regulations. 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.
- D. 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.
- E. 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 other than in a required yard.
- A. 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     ROADSIDE STANDS**

Roadside stands may be permitted in the Agricultural District subject to the following:

- A. Off-street parking shall be provided on the property and outside the public road right-of-way.
- B. One (1) on-site sign may be permitted of up to sixteen (16) square feet in area, located outside of the road right-of-way and adhering to clear vision requirements of Section 3.06, and have a height limit of eight (8) feet from the ground to the top of the sign.

### **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.

**B. Nonconforming Uses**

1. No part of any nonconforming use shall be moved unless the movement eliminates 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 is necessary for the operation of the nonconforming use.
  - e. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
3. A nonconforming use shall not be changed to another use that is also nonconforming unless it is more conforming than the previous use. Once a conforming use is established the prior nonconforming use may not be reestablished.
4. A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Zoning Board of Appeals upon reaching a determination that the proposed enlargement, increase, or greater area:
  - a. Is not larger than twenty five percent (25%) of the original nonconforming area.
  - b. Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots.
  - c. Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase, or greater area.
  - d. Complies with any reasonable conditions imposed by the Zoning Board of Appeals that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.

**C. Nonconforming Buildings and Structures**

1. The expansion of a nonconforming structure shall be permitted provided that the addition complies with this Ordinance and does not increase the nonconformity.

2. In the event any nonconforming building or structure shall be damaged by fire, wind or an act of God or the public enemy, it may be rebuilt or restored provided the cost of restoration thereof shall not exceed sixty (60%) of the replacement value as determined by the Building Inspector.
  3. A nonconforming building or structure shall not be moved in whole or in part except when the moving results in full compliance with the provisions of this Ordinance.
- D. Nonconforming Lots of Record
1. A nonconforming lot may be used for the purposes for which it is zoned, provided that:
    - a. If already less than the minimum requirements of this Ordinance, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance.
    - b. Any main building on the lot shall be located so that at least sixty-six percent (66%) of the setback requirements of the District in which the lot is located are met.
  2. Combination of Nonconforming Lots
    - a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
      - (1) Are in common ownership.
      - (2) Are adjacent to each other or have continuous frontage.
      - (3) Individually do not meet the lot width or lot area requirements of this Ordinance.
    - b. Parcels meeting the provisions of subsection 2, a, above, shall be combined into a lot or lots complying as nearly as possible to the lot width and lot size requirements of this Ordinance. No portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

### **SECTION 3.27 PRIVATE STREETS**

- A. Private streets are not permitted in the Shelby Community.

### **SECTION 3.28 SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon as allowed in the Zoning District provided the unit meets the Development Requirements for the Zoning District in which it is located.

- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with the Site Plan Review process of Chapter 12.
- D. Subdivisions created under the Land Division Act shall be subject to a public hearing process under Section 15.03 and shall meet the standards of Section 12.06.

### **SECTION 3.29 DESIGN STANDARDS (amended July 2007, February 25, 2013)**

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

- A. The applicant shall use quality architecture to ensure that buildings are compatible with surrounding uses, protect the investment of adjacent landowners, blend harmoniously into the streetscape, and maintain a positive image for the Shelby Community.
- B. Building and sign materials and colors shall relate well and be harmonious with the surrounding area. Subtle colors should be used for building and roofing material.
- C. 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.
- D. The first floor of commercial buildings facing a road shall be comprised of ten (10%) minimum of clear glass or a percentage established by the Planning Commission. (amended July 2007)
- E. Any side of a building facing a road should be covered with, or constructed of, at least fifty percent (50%) of the following materials:
  - 1. Brick.
  - 2. Decorative concrete block.
  - 3. Cut stone.
  - 4. Logs.
  - 5. Other materials approved as part of the site plan.
- F. In the Village, sheet metal may be used as an acceptable outdoor wall covering, with a Special Use Permit.
- G. In Shelby Village, architectural features of the buildings shall include details and ornaments such as archways, colonnades and cornices.
- H. Building walls over one hundred (100) feet in length shall be broken up with varying building lines, windows, architectural accents or trees.
- I. Building entrances shall utilize windows, canopies and awnings; provide unity of scale, texture, and color.
- J. Planning Commission may modify or waive the requirements of this Section if it finds that a proposed development is consistent with the character of the surrounding properties.

**SECTION 3.30 TEMPORARY CAMPING (Township Only)**

- A. Temporary camping may be permitted on a lot or parcel under the following conditions:
1. Campgrounds authorized by the Township and licensed by the State of Michigan.
  2. Temporary camping, not regulated by the State of Michigan, for one (1) tent or recreational vehicle for up to ten (10) consecutive or nonconsecutive days or nights per thirty (30) day period.
  3. Temporary camping for up to two (2) tent or recreational vehicles with a temporary permit issued by the Zoning Administrator for up to ten (10) consecutive or nonconsecutive nights provided the parcel is a minimum of one (1) acre in size.
  4. When approving a temporary camping permit, the Zoning Administrator may impose conditions considering but not limited to the following:
    - a. The size of the lot or parcel to be used for the camp site.
    - b. The setback and location of camping areas from existing property lines.
    - c. The density and proximity of permanent dwellings in the vicinity.
    - d. The number of tents or recreational vehicles to be placed on the lot or parcel. In no case shall there be more than four (4) recreational vehicles per lot or parcel.
    - e. The proximity to surface water and other natural features and the relative risk of damage to natural features.
    - f. Limits on the number of tents or recreational vehicles based on the size and configuration of the subject parcel and adjacent parcels.
  5. The Zoning Administrator may approve up to two (2) thirty (30) day extensions of the temporary camping permit.
  6. All campers shall comply with the following rules:
    - a. Quiet hours shall be maintained between the hours of 11:00 p.m. and 7:00 a.m.
    - b. All camping activities are kept a minimum of fifty (50) feet from the ordinary high water mark.
    - c. Temporary camping permit(s) shall only be issued to or renewed by the property owner.
    - d. No temporary camping permits will be issued to individuals under eighteen (18) years of age.
    - e. Upon termination of camping all equipment and supplies must be removed. Garbage and refuse must be removed after each stay.
    - f. Areas used for temporary camping as well as any adjacent lands must be kept in a neat, clean and sanitary condition. Sanitary waste facilities shall be provided, through self-contained units or porta-potties.
    - g. In-ground septic facility, water well, or electricity shall not be permitted on a lot without a main building.
    - h. Recreational campfire areas shall be designated and contained by a fire ring. Burning permits shall be obtained when required and fires shall be adequately

monitored and contained. The campfire shall not constitute a nuisance to neighboring properties due to the size or location of the fire, excessive smoke, or noxious items being burned.

- i. Camping activities shall not be a nuisance to surrounding property.

### **SECTION 3.31 FARM MARKETS (*amended 2013*)**

A. Farm markets may be permitted in the C-1 district subject to the following conditions:

1. Farmers' 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 farmers' 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.

## **CHAPTER 4**

### **ZONING DISTRICTS AND ZONING MAP**

#### **SECTION 4.01 ESTABLISHMENT OF DISTRICTS**

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

AG	Agricultural (Township only)
RR	Rural Residential District (Township only)
R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	Multiple Family Dwelling District
R-4	Manufactured Home Community District
C-1	Central Business District (Village only)
C-2	General Business District
C-3	Highway Business District
PUD	Planned Unit Development District
IND	Industrial District

#### **SECTION 4.02 OFFICIAL ZONING DISTRICTS MAP**

The boundaries of the Zoning Districts enumerated in Section 4.01 are hereby established as shown on the "Official Zoning Map, Shelby Township" and "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 and Township Clerks, accessible to the public, and the final authority as to the current zoning status of all property in the Community.

#### **SECTION 4.03 INTERPRETATION OF DISTRICT BOUNDARIES**

If because of the scale, lack of details, or 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 or Township limits, they shall be construed as following the Village or Township 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.

#### **SECTION 4.04 ZONING OF VACATED AREAS**

If a street, alley or other public right-of-way within the Community 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 (Village Only)**

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 Act if they determine that the annexed area should be in a District other than R-1.

## CHAPTER 5 AG AGRICULTURAL DISTRICT

### SECTION 5.01 STATEMENT OF PURPOSE

The regulations of the AG Agricultural District are intended to ensure that land areas within the Community which are well suited for production of food and fiber are retained for such production, unimpeded by the establishment of incompatible uses which would hinder farm operations and irretrievably deplete agricultural lands. Subdivisions or site condominium developments requiring urban services are to be excluded from these areas. Open space developments are encouraged. The Districts shall also accommodate very low density residential development and other uses generally associated with agricultural and rural residential uses. As an Agricultural District, certain impacts such as odors, noise, application of chemicals, and other external impacts typically associated with farming operations shall be recognized and reasonably tolerated provided they do not pose a threat to the general health, safety, and welfare of Shelby Community residents.

### SECTION 5.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for the AG District:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.
- SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.
- NP: Not Permitted: The use is not permitted in the District.

Table 5-1: Table of Uses		AG
Accessory Uses	Accessory structures and uses as defined in Chapter 2 and subject to Section 3.11	P
	Home occupation subject to Section 3.24	P
	Bed and breakfast establishment	SLU
Agricultural and Residential Uses	Agri-tourism establishment ( <i>amended 2013</i> )	SLU
	Single family dwelling (detached)	P
	Open space development	SLU
	General farming	P
	Intensive livestock operation	SLU
	Horse riding breeding stable	SLU
	Migrant labor housing	SLU
	Roadside stand subject to Section 3.25	P
	State licensed residential facility, family care facility	P
	Family day care home	P

<b>Non-Agricultural Uses</b>	Agricultural support services	SLU
	Boat and canoe/kayak yards	NP
	Campgrounds, public or private	SLU
	Cemeteries	P
	Game farm	SLU
	Home-based business	SLU
	Mineral removal	SLU
	Wireless communication services	SLU
	Wind energy conversion systems (WECS)	SLU

### SECTION 5.03 SITE DEVELOPMENT REQUIREMENTS

- A. No lot, main building, or structure, nor the enlargement of any main building or structure, shall be hereafter erected unless all of the following requirements are met and maintained in connection with the use of the lot, main building, structure, or enlargement.

<b>AG DISTRICT REGULATIONS</b>	
Minimum Lot Area	80,000 square feet
Minimum Lot Width	200 feet
Minimum Front Yard Setback	100 feet from the road right-of-way line
Minimum Side Yard Setback	50 feet
Minimum Rear Yard Setback	50 feet
Maximum Lot Coverage	15 percent
Maximum Building Height	2 ½ stories; or 35 feet, whichever is higher
Minimum Dwelling Unit Size	750 square feet

- B. Permitted Lot Splits
- The maximum number of lots that may be created or split for new single family dwelling units in addition to creating a lot for an existing dwelling unit shall be based on the gross area of the lot of record which is to be divided, as listed in the following Sliding Scale table.

Sliding Scale – AG District	
Area of Lot of Record	Maximum Additional Lots Permitted
4 to 10 acres	2
10.1 to 20 acres	3
20.1 to 30 acres	4
Over 30.1 acres	5

2. In addition to the divisions allowed under the above table, every lot which contains a single family dwelling existing before the date of this Ordinance (*INSERT DATE HERE*) shall be allowed to split a lot from the main acreage and create a new lot for the existing dwelling. This new lot shall comply with the provisions of paragraph B, of this section. Any additional lot splits are not permitted.
  3. The above regulations shall not cause the lot of record to be split in a manner which would violate the requirements for access and other applicable provisions contained in the Michigan Land Division Act, Act 288 of 1967, or the Village or Township Land Division Ordinance, as amended. Any provision of this Ordinance notwithstanding, Shelby Community is not responsible for any violations of this Ordinance or of the Land Division Act.
  4. For each parcel greater than those covered by the Sliding Scale table, existing as of the date of this Ordinance, the sliding scale shall be applied to the remaining acreage. For example, for every additional eighty (80) acres of land an additional seven (7) splits are permitted.
  5. Service roads may be permitted for land divisions that do not have public road frontage. Service roads shall have a minimum width of thirty- three (33) feet. Drives shall meet Michigan Department of Transportation standards with respect to road base. The minimum width of the finished drive shall be fifteen (15) feet. The property owner shall provide the service road prior to the approval of a new land division.
- C. Monitoring Lot Splits – Shelby Community recognizes that proper administration of the this subsection must be established along with an official register containing the following information:
1. Concurrent with the adoption of this Ordinance, an official map indicating existing lots, parcel numbers, and land ownership shall be established along with an official register containing this information.
  2. An allotment of dwelling units possible under this Ordinance shall be made for each parcel in the AG District.
  3. As allotments are used up, the official map and register shall be updated to reflect these changes.
- D. The official map and register shall be maintained by the Clerk of the Township and copies made available for inspection by the public.

**Table 5-2: Parking Requirements**

<b>Use</b>	<b>Parking Requirement Spaces Per Unit of Measurement</b>
<b>Residential</b>	
Bed and breakfast establishments	2 plus 1 per guest room
Single family detached dwellings	2 per dwelling unit
Family day care homes	1 per each 3 children or adults under care, computed on the basis of the licensing limits of the facility
Horse riding stables, horse breeding stables	1 per each 2 stalls; parking spaces shall be sized to accommodate vehicles plus trailers
Wireless Communication Towers or Wind Energy Conversion Systems (WECS)	1 space per tower

**SECTION 5.04 SIGNS**

- A. General sign regulations are listed in Section 13.05. The following signs are permitted in the Agricultural District:
- One (1) non-illuminated wall sign of up to eight (8) square feet for a home occupation. Township only: If a residential unit containing a home occupation is located seventy-five (75) feet or more from the right-of-way line, one (1) freestanding sign of not more than eight (8) square feet in area and five (5) feet in height is permitted.
  - One (1) non-illuminated real estate sign not exceeding six (6) square feet in area.
  - Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
  - On-site political signs not exceeding twelve (12) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within ten (10) days after the election.
  - See Section 13.05 for sign regulations applicable to all Districts.
- B. Application and Review Requirements

<b>Table 5-2: Application and Review Requirements</b>		
<b>Review Process</b>	<b>Application Requirements</b>	<b>Submission Deadline</b>
<b>Site Plan Review (Chapter 12)</b>	Completed application form	15 days prior to the Planning Commission meeting, unless submitted with a Special Land Use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing Review Standards of Section 12.06	
	Complete site plans in accordance with Section 12.03	
<b>Special Land Uses (Chapter 11)</b>	Application fee/escrow fee	30 days before next Planning Commission meeting.
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing specific requirements of Section 11.04	
<b>Rezoning</b>	Narrative addressing Review Standards of Section 15.04	
	Proof of ownership or interest in property	
	Legal description of property	

## CHAPTER 6

### RR, R-1, R-2 AND R-3 RESIDENTIAL DISTRICTS

#### SECTION 6.01 INTENT AND PURPOSE

The regulations of these Districts are intended to encourage a suitable environment for a variety of residential densities, and compatible supportive recreational, institutional, and educational uses. The intent of the Districts is to protect residential areas from the encroachment of uses that are not appropriate to a residential environment.

#### SECTION 6.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for the RR Rural Residential; R-1, Low Density Residential, R-2, Medium Density Residential, and R-3, Multiple Family Residential districts:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.

NP: Not Permitted: The use is not permitted in the District.

Table 6-1: Table of Uses		RR	R-1	R-2	R-3
Accessory Uses	Accessory structures and uses as defined in Chapter 2 and subject to Section 3.11	P	P	P	P
	Home occupation subject to Section 3.24	P	P	P	P
	Group day care home	SLU	SLU	SLU	SLU
	Bed and breakfast establishment	SLU	SLU	SLU	SLU
Residential Uses	State licensed residential facility, family care facility.	P	P	P	P
	State licensed residential facility Small Group Home Care Facility	SLU	SLU	SLU	SLU
	State licensed residential facility Large Group Home Care Facility	NP	NP	SLU	SLU
	Family day care home	P	P	P	P
	Multiple family dwelling	NP	NP	SLU	P
	Two-family dwelling	NP	NP	P	P
	Elderly housing	NP	NP	SLU	P
	Single family detached dwelling	P	P	P	P
	Open space development	SLU	SLU	SLU	SLU

Table of Uses		RR	R-1	R-2	R-3
Institutional Uses	Convalescent or nursing home	NP	NP	SLU	SLU
	Elementary, middle and high school (private)	SLU	SLU	SLU	SLU
	Cemeteries	SLU	SLU	SLU	SLU
	Place of religious worship	SLU	SLU	SLU	SLU
	Hospital	NP	NP	SLU	SLU
	Golf course or country club	SLU	SLU	NP	NP
Non-Residential Uses	Agricultural operation including general farming, truck farming, fruit orchard, nursery, greenhouses, and usual farm buildings but excluding intensive livestock operations	P	NP	NP	NP
	Campgrounds, public or private, including travel trailer parks	SLU	NP	NP	NP
	Horse riding stable, horse breeding stable	SLU	NP	NP	NP
	Home-based business	SLU	NP	NP	NP
	Public and utility service buildings, not including storage yards	SLU	SLU	SLU	SLU
	Park, playground or community center	P	P	P	P
	Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources	SLU	NP	NP	NP
	Utility substation, transmission line and switching station	SLU	SLU	SLU	SLU
	Wireless communication towers not exceeding 75 feet in height wholly owned and used by a federally licensed amateur radio station operator.	P	P	P	P
	Wind energy conversion systems (WECS)	SLU	NP	NP	NP

### SECTION 6.03 DEVELOPMENT REQUIREMENTS

#### A. Application and Review Requirements

The following chart provides for application and review requirements for the RR, R-1, R-2 and R-3 Districts. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the Zoning Administrator. Note: Single family detached dwellings must provide a plot plan, not a site plan.

<b>Table 6-2: Application and Review Requirements</b>		
<b>Review Process</b>	<b>Application Requirements</b>	<b>Submission Deadline</b>
<b>Site Plan Review (Chapter 12)</b>	Completed application form	15 days prior to the Planning Commission meeting, unless submitted with a Special Land Use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing Review Standards of Section 12.06	
	Complete site plans in accordance with Section 12.03	
<b>Special Land Uses (Chapter 11)</b>	Application fee/escrow fee	30 days before next Planning Commission meeting.
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing specific requirements of Section 11.04	
<b>Rezoning</b>	Narrative addressing Review Standards of Section 15.04	
	Proof of ownership or interest in property	
	Legal description of property	

#### **SECTION 6.04 LOT, YARD AND BUILDING REQUIREMENTS**

- A. See Table 6-3 for lot, yard and building requirements. In the Village, an infill main structure on a single lot on a minor street may align with adjacent main structures provided the minimum setback is at least five (5) feet from the road right-of-way.
- B. General Parking Requirements for RR, R-1, R-2, and R-3 Districts
1. Location of parking
    - a. Single family detached and two family dwellings: The off-street parking facilities required for single family and two family dwellings shall be located on the same lot as the building they are intended to serve. In the Village parking is limited to the garage and driveway only. One (1) additional parking lane may be allowed with Zoning Administrator approval.
    - b. Multiple family dwellings and non-residential uses: The off-street parking facilities required for multiple family dwellings and non-residential uses shall not be located in the required front yard area.
    - c. Parking areas for a multiple family development of over four (4) units located in the side and rear yard setback areas adjacent to a Residential District or use shall be a minimum of thirty (30) feet of which ten (10) feet nearest the respective property line shall be developed as a buffer strip in accordance with Section 13.01,E for the entire length of the parking area. The required buffer strip shall incorporate a minimum six (6) foot high vegetative and/or fence screen.
  2. The amount of required off-street parking spaces for individual uses shall be determined in accordance with Table 6-4 and shall meet the applicable requirements of Section 13.02.

**Table 6-3: Lot, Yard and Building Requirements**

Requirement			RR	R-1	R-2		R-3	
Lot Requirements	Minimum Area		80,000 sq. ft.	12,000 sq. ft.	Single family	8,000 sq. ft.	10,000 sq. ft. minimum plus 3,000 sq. ft. of lot area per dwelling unit	
					Two family	10,000 sq. ft.		
	Minimum Width		200 ft.	80 ft.	Single family	65 ft	150 ft.	
					Two family	100 ft.		
	Maximum Lot Coverage		30%	40%	40%		40%	
	Width to Depth Ratio		1:4 Township, 1:3 Village (see also Section 3.08)					
Minimum Setback Requirements	Front		100 ft.	25 ft.	15 ft.		30 ft.	
	Side	Residential uses	50 ft.	12 ft.	Single family 16 ft. total 4 ft. minimum Two family 10 ft. each side		25 ft.	
		Non-residential uses	50 ft.	30 ft.	25 ft.		25 ft.	
	Rear		50 ft.	30 ft.	30 ft.		40 ft.	
	Maximum Height		35 ft.	35 ft.	35 ft.		35 feet	
Building Requirements	Dwelling Unit Floor Area (UFA)		750 sq. ft.	1,200 sq. ft.	Single family - 1,200 sq. ft. Two family – 1,000 sq. ft. per unit	1- bedroom apt.	650 sq. ft.	
						2 bedroom apt.	750 sq. ft.	
						3 bedroom apt.	900 sq. ft.	
						Over 3 bedrooms	100 sq. ft. additional for each over 3	
	Usable Open Space	Percentage Total Area		NA	25% (PUDs only)	20% (not including required yards) PUDs only		15% (not including required yards)

**Table 6-4: Parking Requirements**

Use	Parking Requirement Spaces per Unit of Measurement
<b>Residential</b>	
Bed and breakfast establishment	2 plus 1 per guest room
Single family detached dwellings, two-family dwellings	2 per dwelling unit
Multiple family dwellings	2.5 per unit
Family and group day care homes	1 per each 3 children or adults under care, computed on the basis of the licensing limits of the facility
State licensed residential family care facility or group home care facility	1 per each 3 beds or 2 rooms, whichever is less, plus 1 per on duty shift staff
<b>Non-Residential</b>	
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Auditoriums or places of assembly, as included in uses permitted in the Residential District	1 per each 3 seats
Cemeteries	2 spaces plus 1 space for each 400 sq. ft. of UFA for office spaces, plus that required for a caretaker's residence
Family day care	1 per each 3 clients computed on the basis of the greatest number of clients on site at a given time in addition to those required for the residence
Elementary, middle and secondary schools (private)	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for busses must be provided
Golf courses or country clubs	2 per each hole for a par 3 course; 6 per hole for other courses plus those required for accessory uses as noted in the applicable Districts
High schools (private)	1 space per 5 students or the amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Horse riding stables, horse breeding stables	1 per each 2 stalls; parking spaces shall be sized to accommodate vehicles plus trailers
Hospitals	1 per each three beds and 1 per each employee in addition to 1 per each 200 square feet of UFA of outpatient area
Municipal and public service activities	1 per each 300 sq. ft. GFA, not including parking areas for municipal vehicles (police cars, public works vehicles, etc.), plus spaces required for assembly areas
Parks, playgrounds and community centers	10 per each athletic field plus 1 per each 10 sq. ft. of indoor or outdoor play area
Places of religious worship	2 per each 5 seats for capacity. Based on the maximum seating capacity of the main place of assembly.

**Table 6-4: Parking Requirements**

Use	Parking Requirement Spaces per Unit of Measurement
Wireless Communication Towers or Wind Energy Conversion	1 space per tower

**SECTION 6.05 SIGNS**

- A. General sign regulations are listed in Section 13.04. The signs noted in this Section are permitted in all Residential Districts:
- B. Residential entrance way signs (up to thirty-two (32) square feet) are permitted for residential developments. One (1) sign for each public road frontage may be provided; or two (2) signs may be allowed, one (1) at each corner, provided that the total area of both signs does not exceed thirty-two (32) square feet. Signs shall not exceed eight (8) feet in height.
- C. One (1) internally illuminated monument sign of up to thirty-two (32) square feet for institutional uses such as places of religious worship, schools and parks. Signs shall not exceed eight (8) feet in height.
- D. One (1) non-illuminated wall sign of up to eight (8) square feet for a home occupation. Township only: If a residential unit containing a home occupation is located seventy-five (75) feet or more from the right-of-way line, one (1) freestanding sign of no more than eight (8) square feet in area and five (5) feet in height is permitted.
- E. One (1) non-illuminated real estate sign not exceeding six (6) square feet in area.
- F. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
- G. On-site political signs not exceeding twelve (12) square feet in display area, provided that the signs are removed no later than ten (10) days after the election.
- H. See Section 13.05 for sign regulations applicable to all Districts.

## CHAPTER 7

### R-4 MANUFACTURED HOME COMMUNITY DISTRICT

#### SECTION 7.01 INTENT AND PURPOSE

The purpose of this 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.

#### SECTION 7.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for the R-4 District:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 12 are met.

<b>Table 7-1: Table of Uses</b>	<b>R-4</b>
Accessory structures and uses as defined in Chapter 2 and subject to Section 3.11	P
Cemeteries	SLU
Convalescent or nursing home	SLU
Elementary, middle and secondary schools (private)	SLU
Family day care home	P
Home occupations subject to Section 3.24	P
Manufactured home community	P
Parks, playgrounds and community centers	P
Places of religious worship	SLU
Public and utility service buildings	SLU
State licensed residential facility, family care facility	P
Utility substations, transmission lines and switching stations	SLU
Wireless communication towers	SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other existing structure, subject to District height restrictions	P

#### SECTION 7.03 DEVELOPMENT REQUIREMENTS

- A. Application and Review Requirements. Application and review requirements for the R-4 District shall be the same as those required for Site Plan Review in Chapter 12. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the Zoning Administrator.

**Table 7-2: Application and Review Requirements**

<b>Review Process</b>	<b>Application Requirements</b>	<b>Submission Deadline</b>
<b>Site Plan Review (Chapter 12)</b>	Completed application form	15 days prior to the Planning Commission meeting, unless submitted with a Special Land Use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing Review Standards of Section 12.06	
	Complete site plans in accordance with Section 12.03	
<b>Special Land Uses (Chapter 11)</b>	Same as Site Plan Review	30 days prior to the Planning Commission meeting
	Narrative addressing General Standards of Section 11.03 and applicable Specific Requirements of Section 11.04	
<b>Rezoning</b>	Completed application form	30 days prior to the Planning Commission meeting
	Application fee/escrow fee	
	Property map showing property to be rezoned and surrounding properties and current zoning	
	Proof of ownership or interest in properties	
	Narrative addressing Review Standards of Section 15.04	
	Legal description of properties	

**SECTION 7.04 LOT, YARD AND BUILDING REQUIREMENTS****Table 7-3: Lot, Yard, and Building Requirements**

<b>Regulation</b>		<b>Individual Manufactured Home Sites*</b>
Manufactured Home Site	Area/Dwelling Unit	5,000 sq. ft.
	Width (ft.)	40 ft.
Setback Requirements	Front Yard	50 ft. for the park, 5 ft. for individual sites
	Side Yard (1/total of 2)	50 ft. for the park, 10/30 for individual sites
	Rear Yard	50 ft. for the park, 15 ft. for individual sites
Building Requirements	Maximum Building Height (Stories/ft.)	2/35 for community buildings; 1/15 for dwellings and all other buildings
	Minimum Floor Area Per Dwelling Unit	980 sq. ft.

\*All other uses shall have a minimum front and rear yard setback of forty (40) feet and side yard setbacks of twenty (20) feet.

## A. Parking Requirements

## 1. Location of parking

- a. **Manufactured Home Community:** The off-street parking facilities required for a single home site shall be located on the same lot as the dwelling unit they are intended to serve. Parking is limited to the garage/carport and driveway only. Required parking spaces provided for visitors shall be evenly distributed throughout the development.
- b. **Non-residential Uses:** The off-street parking facilities required for non-residential uses shall not be located in the required front yard area. The respective side and rear yard setback common to an adjacent Residential District or use shall be a minimum of thirty (30) feet of which ten (10) feet nearest the respective property line shall be developed as a buffer strip in accordance with Section 13.01, E. The buffer strip shall extend the entire depth of the side of the lot in the case of the side yard parking adjoining the Residential District or use, or the width of the rear of the lot in the case of rear yard parking adjoining the Residential District or use. The required buffer strip shall incorporate a minimum six (6) foot high vertical screen.

2. The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table.

<b>Table 7-4: Parking Requirements</b>	
<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
<b>Residential</b>	
Elementary, middle and secondary school, private	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Cemeteries	2 spaces plus 1 space for each 400 sq. ft. of UFA for office spaces, plus that required for a caretaker's residence
Manufactured home community	2 spaces per manufactured home site, plus 1 space per each 5 home sites for use of visitors, plus 1 space for each 300 sq. ft. UFA in the office area
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Park, playground and community center	10 per each athletic field, plus 1 per each 10 sq. ft. of indoor or outdoor play area
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Wireless communications tower	1 space per tower

- B. **Signs:** General sign regulations are listed in Section 13.05. The following signs are permitted in the Manufactured Home Community District:

1. Residential entrance way signs (of up to thirty-two (32) square feet) are permitted for residential developments. One (1) sign for each major public road frontage may be provided. Signs shall not exceed eight (8) feet in height.
2. Internally illuminated monument signs of up to twenty four (24) square feet for institutional uses such as places of religious worship, schools and parks. Signs shall not exceed eight (8) feet in height.
3. One (1) non-illuminated sign advertising the sale or rental of the building on the premises not exceeding six (6) square feet in area.
4. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
5. On-site political signs not exceeding twelve (12) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within ten (10) days of the election.
6. See Section 13.05 for sign regulations applicable to all Districts.

## **CHAPTER 8**

### **C-1, C-2 AND C-3 COMMERCIAL DISTRICTS**

#### **SECTION 8.01 INTENT AND PURPOSE**

- A. 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.
- B. 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.
- C. The C-3 Highway Commercial District is intended to serve as a convenience center for the traveling public, generally on lands near the U.S. 31 interchanges. Managing access to individual properties will receive strong consideration during the review of individual sites. The use of combined drives, service drives, and well-planned access points will be stressed. Efforts will be made to discourage the placement of loading areas, outside storage and other unattractive features in areas clearly visible from the roadway or from neighboring residential uses. The C-3 District is further intended to provide for uses, which, due to either size or nature, are not well suited for locations within the C-1 or C-2 Districts.

#### **SECTION 8.02 TABLE OF USES**

The following abbreviations apply to the Table of Uses:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.
- SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.
- NP: Not Permitted: The use is not permitted in the District.

<b>Table 8-1: Table of Uses</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>
Accessory apartments as part of a commercial use	P	SLU	NP
Existing single family homes ( <i>added Dec. 2011</i> )	P	NP	NP
Accessory structures and uses as defined in Chapter 2 and subject to Section 3.11	P	P	P
Art studio/craft shop	P	P	P
Assembly or manufacturing facility under 10,000 square feet GFA ( <i>amended 2013</i> )	NP	SLU	NP
Bank or other financial institution without drive through facility	P	P	P
Banquet hall and/or conference center	SLU	SLU	P
Bus passenger station	NP	SLU	P
Catering establishment	P	SLU	P
Commercial day care center	SLU	P	SLU
Commercial storage warehouse	NP	SLU	SLU
Contractor's office (with outdoor storage)	P	SLU	P
Convalescent or nursing home	NP	SLU	SLU
Drive through facility other than a restaurant (e.g., bank, credit union, pharmacy, dry cleaner)	SLU	SLU	SLU
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage	NP	SLU	SLU
Elementary, middle, and high school (private)	NP	SLU	SLU
Farm Market ( <i>amended 2013</i> )	P	NP	NP
Fraternal or social club or lodge	SLU	P	P
Health or exercise club	P	P	P
Hospital	SLU	SLU	SLU
Hotel/motel	SLU	SLU	P
Indoor theater	P	P	P
Kennel, commercial	NP	SLU	SLU
Laundromat	P	P	P
Medical office, including clinic	SLU	SLU	P
Mortuary or funeral home	SLU	SLU	SLU
Motor freight transportation/trucking terminal	NP	SLU	SLU
Open air business	NP	SLU	SLU
Personal service establishment (e.g., salon, tailor, dry cleaning drop-off site, etc.)	P	P	P
Places of religious worship	NP	SLU	SLU
Professional offices	SLU	SLU	SLU
Public and utility service buildings	SLU	SLU	SLU
Recreation facility, indoor (e.g., arcades, bowling, billiards)	SLU	SLU	SLU

<b>Table 8-1: Table of Uses</b>		<b>C-1</b>	<b>C-2</b>	<b>C-3</b>
Recreation facility, outdoor (e.g., mini-golf, batting cages)		NP	SLU	SLU
Restaurant	with drive-through facility	NP	SLU	SLU
	without drive-through facility	P	P	P
Retail building supplies and equipment stores with outdoor display and storage		NP	SLU	P
Retail establishments under 10,000 square feet GFA		P	P	P
Retail establishments 10,000 square feet GFA and over		NP	SLU	P
Expansion of existing single family dwellings, provided the expansion is not more than 30% of the existing floor area of the dwelling.		NP	P	NP
Tavern, with or without dancing, live entertainment or consumption of alcoholic beverages on premises, except sexually oriented businesses		SLU	SLU	NP
Truck stop		NP	NP	SLU
Utility substation, transmission line and switching station		SLU	SLU	SLU
Vehicle repair, minor		NP	SLU	P
Vehicle repair, major		NP	SLU	SLU
Vehicle sales		NP	SLU	P
Vehicle service station		NP	SLU	P
Vehicle wash establishment		NP	SLU	SLU
Veterinary clinic		NP	SLU	SLU
Video rental and sales (except that video rentals are permitted as an accessory use when accessory to another retail use)		SLU	P	P
Wireless communication tower		NP	SLU	SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other structure, subject to overall height restrictions		P	P	P

### SECTION 8.03 DEVELOPMENT REQUIREMENTS

- A. Application and Review Requirements. Table 8-2 provides for application and review requirements for the C-1, C-2 and C-3 Districts. No application shall be accepted unless in compliance with all of the stated requirements, unless specifically waived by the Zoning Administrator.
- B. Lot, Yard, and Building Requirements, see Table 8-3.

<b>Table 8-2: Application and Review Requirements</b>		
<b>Review Process</b>	<b>Application Requirements</b>	<b>Submission Deadline</b>
<b>Site Plan Review (Chapter 12)</b>	Completed application form	15 days prior to the Planning Commission meeting
	Application fee/escrow fee	
	Legal description of property	
	Narrative addressing Review Standards of Section 12.06	
	Complete site plans in accordance with Section 12.03.	
<b>Special Land Uses (Chapter 11)</b>	Same as Site Plan Review	30 days prior to the Planning Commission meeting
	Narrative addressing General Standards of Section 11.03 and applicable Specific Requirements of Section 11.04	
<b>Rezoning</b>	Completed application form	30 days prior to the Planning Commission meeting
	Application fee/escrow fee	
	Property map showing property to be rezoned and surrounding properties and current zoning	
	Proof of ownership or interest in properties	
	Narrative addressing Review Standards of Section 15.04	
	Legal description of properties	

- C. **Parking Space Requirements.** The amount of required off-street parking spaces for individual uses shall be determined in accordance with Table 8-3 and shall meet the dimensional requirements of Section 13.02, Parking Requirements

## SECTION 8.04 LOT, YARD AND BUILDING REQUIREMENTS

Table 8-3: Lot, Yard and Building Requirements, Commercial Districts				
Requirement		C-1 Central Business	C-2 General Business	C-3 Highway Commercial
Lot Requirements	Minimum Area	None	20,000 sq. ft.	1.5 acres
	Minimum Width	None	80 ft.	120 ft.
	Minimum Depth	None	120 ft.	180 ft.
	Width-to-Depth Ratio	1:4 for the Township, 1:3 for the Village		
	Maximum Lot Coverage	90%	50%	60%
Setback Requirements	Front	Must align with other structures	Village Properties fronting 2 <sup>nd</sup> and 3 <sup>rd</sup> St. - 20 ft.	100 ft.
			Township - 100 ft Village - 30 feet	
	Side	One side	0 ft.	30 ft. each side
		Total 2 sides	0 ft.	
	Rear		0 ft.	30 ft.
	Maximum setback		NA	150 ft.
Building Requirements	Maximum Height		50 ft.	2 ½ stories
	Minimum Height		35 ft. and 2 stories, or match adjacent buildings	NA

<b>Table 8-4: Parking Space Requirements, Commercial Districts</b>		
<b>Use</b>		<b>Parking Requirement Spaces per Unit of Measurement</b>
<b>Residential</b>		
Accessory apartments as part of a commercial use		1.5 per dwelling unit
Art studio/craft shop		1 space per 800 sq. ft. of GFA
Bank or other financial institution without drive-through facility		1 space per each 400 sq. ft. of GFA
Banquet hall and/or conference center		1 space for every 4 persons by occupancy permitted in the structure by fire code
Bus passenger station		1 space per 200 sq. ft. of GFA
College or university		1 space per every 3 students or the amount required for the auditorium or place of assembly, whichever is greater
Commercial day care center		1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Commercial storage warehouse		1 space for every storage unit (adjacent to the units) plus 1 for each employee
Convalescent or nursing home		1 space per each 3 beds or 2 rooms, whichever is less, plus 10 spaces marked for visitors
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage		1 space
Schools (private)	Elementary and middle	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup must be provided
	High	1 for each teacher, employee or administrator plus 1 for each 10 students, plus those required for an auditorium or place of assembly; separate areas for student drop off and pickup must be provided
Fraternal or social club or lodge		1 space for every 4 persons by occupancy permitted in the structure by fire code
Freight transportation/trucking terminal		1 space per each employee
Health or exercise club		1 space for every 6 persons by occupancy permitted in the structure by fire code
Hospital		1 per each three beds and 1 per each employee in addition to 1 per each 200 square feet of UFA of outpatient area
Hotel/motel		3 spaces for employees, plus 1 for each guest room, plus required spaces for accessory uses
Indoor theater		1 space per each 3 seats, plus 1 for each 2 employees
Kennel, commercial		1 space for each 400 sq. ft. of UFA
Laundromat		1 space for each 2 machines

**Table 8-4: Parking Space Requirements, Commercial Districts**

<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
Medical office, including clinic	1 space per each 400 sq. ft. of GFA
Mortuary or funeral home	1 space per each 50 sq. ft. of UFA
Open air business	1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any main building and associated accessory uses
Personal service establishment	2 spaces per service provider
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Professional office	1 space per each 400 sq. ft. of GFA
Public and utility service buildings	1 space per each 300 sq. ft. of GFA, not including parking areas for municipal vehicles
Recreation facility, indoor (e.g., arcades, bowling, billiards)	1 space for every 3 persons by occupancy permitted in the structure by fire code
Recreation facility, outdoor (e.g., mini-golf, batting cages)	1 space per each 2 miniature golf holes, plus 2 per each batting cage, plus 1 per each 100 sq. ft. of GFA of arcade space
Restaurant without drive through facility	1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes for the area devoted to indoor seating
Retail garden and landscape supply stores	1 space per each 300 sq. ft. of UFA plus area of outdoor storage area ((UFA + outdoor)/300)
Retail building supplies and equipment store	1 space per each 300 sq. ft. of UFA
Retail establishment	1 space per each 300 sq. ft. of GFA
Tavern, with or without dancing, live entertainment or consumption of alcoholic beverages on premises	1 space for every 3 persons by occupancy permitted in the structure by fire code
Truck stop	1 space for each employee and 1 space per each 200 sq. ft. of UFA
Vehicle repair, minor and major	1 space per service bay plus 1 space per employee
Vehicle sales	1 per each 300 sq. ft. of GFA in the showroom/office, plus required spaces for accessory repair areas
Vehicle wash establishment	1 space per each 3 wash bays plus stacking as required by Chapter 11
Veterinary clinic	1 space for each 400 sq. ft. of UFA
Video rental and sales	1 for each 800 sq. ft. UFA plus 1 for each 2 employees
Wireless communications tower	1 space

D. Signs:

1. General sign regulations are listed in Section 13.05. Signs shall pertain exclusively to the business carried on within the building or premises. The following signs are permitted in all Commercial Districts. (*amended 2013*)
  - a. A non-illuminated real estate sign not exceeding twenty-four (24) square feet in area.
  - b. On-site political signs not exceeding twenty four (24) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within ten (10) days of the election.
  - c. Electronic message boards, subject to special land use review and approval and following requirements: (*amended 2016*)
    - (1) An electronic message board is permitted, provided that the electronic message board does not occupy more than 50% of the total area of the sign or 24 square feet, whichever is less.
    - (2) The message(s) displayed on the electronic message board shall pertain to the principal use of the lot or parcel on which it is located.
    - (3) The intensity and contrast of light levels on the electronic message board shall remain constant throughout the sign face. An electronic message board shall use automatic day/night dimming software or programming to reduce the illumination intensity of the sign at night.
    - (4) The electronic message board shall not have flashing, blinking or a similar effect and shall have a static display free of movement.
    - (5) The message shall change no more frequently than once every six (6) seconds.
    - (6) The brightness of an electronic message board, measured at the property line, shall not exceed 0.3 footcandles. An applicant proposing an electronic message board shall provide a photometric plan demonstrating compliance with this standard.
    - (7) An electronic message board shall not be located within 100 feet of a parcel containing a residential principal use or a parcel in the AG, RR, R-1, R-2 or R-3 districts.
    - (8) It shall be the responsibility of the owner on whose property the sign is located to present the Zoning Administrator documentation that the brightness of the electronic message board is compliant with this Ordinance within ten (10) days of installation.
2. The following signs are permitted in the C-2 and C-3 Districts:
  - a. One (1) monument, or pole sign is permitted per property, regardless of the number of businesses there, except that one (1) additional freestanding sign may be erected per road frontage when the development has parallel frontage on more than one (1) major road or corner frontages on major roads totaling over five hundred (500) linear feet.
    - (1) Pole signs shall not exceed twenty (20) feet in height and monument signs shall not exceed ten (10) feet in height.
    - (2) Sign area shall be limited to two (2) square feet of area for every one (1) linear foot of road frontage but in no case shall the sign be larger than three hundred and sixty (360) square feet in area.

- b. Wall, awning or bracket signs shall not exceed ten percent (10%) of the surface area of the commercial portion of the front building face and may be placed on any wall. Canopy signs shall be considered wall signs.
  - (1) In the case where the building is over one hundred (100) feet from the road, this allotment may be fifteen percent (15%) of the front face of the storefront.
  - (2) In the case where the building is over three hundred (300) feet from the road, this allotment may be twenty percent (20%) of the front face of the storefront.
  - (3) Signs shall be attached to the main building or on a canopy.
  - (4) Signs shall not project above the roofline or cornice.
- 3. The following signs are permitted in the C-1 District: *(amended July 2007)*
  - a. Wall, awning or bracket signs shall not exceed ten percent (10%) of the surface area of the commercial portion of the front building face and may be placed on any wall. While pole signs are not appropriate in a “Main Street” setting, because the buildings are at or near the right-of-way, there are properties in the C-1, Central Business district that are setback from the right-of-way so a wall sign may not be readily noticed. For those properties it may be reasonable to permit pole or monument signs under certain conditions.
  - b. Canopy signs shall be considered wall signs.
  - c. One monument sign may be permitted instead of a wall sign on properties with a minimum of a ten (10) foot front yard setback for parcels fronting North Michigan Avenue and Maple Street, provided:
    - (1) The sign shall not exceed four (4) feet in height.
    - (2) Sign area shall not exceed twelve (12) square feet.
    - (3) Placement of the sign shall not cause any obstruction of street or roadway intersections, adjacent driveways or pedestrian walkway or path ways.
    - (4) Sign illumination shall not commence prior to 7:00 a.m. and discontinue no later than 11:00 p.m.
  - d. One pole or monument sign may be permitted instead of a wall sign on properties with a minimum of a fifteen (15) foot front yard setback for parcels fronting 2nd, 3rd, 4th, & 5th, Streets provided:
    - (1) A Pole sign shall not exceed fifteen (15) feet in height with a minimum of six (6) feet of clearance from the ground to the bottom of the sign. The sign shall not exceed twenty four (24) square feet in area.
    - (2) A monument sign shall not exceed four (4) feet in height and twelve (12) square feet in area.
    - (3) Placement of the sign shall not cause any obstruction of street or roadway intersections, adjacent driveways or pedestrian walkway or path ways.
    - (4) Sign illumination shall not commence prior to 7:00 a.m. and discontinue no later than 11:00 p.m.
- 4. Billboards are permitted only in the C-2 district as a special land use and must comply with the following standards: *(amended 2015)*
  - a. A billboard may be considered a principal or accessory use and shall be located on a parcel that meets the lot area and width requirements of district in which it is located.

- b. In addition to the requirements of Chapter 12, a site plan shall also illustrate distances and spacing of existing billboards, residential districts and uses, and setbacks.
- c. Spacing: Billboard supports shall be at least seventy-five (75) feet from any Residential District or use lot line and shall be spaced at least three hundred (300) feet from another billboard. This distance shall not be measured from across a street. Billboards shall be at least two hundred (200) feet from any intersection.
- d. Area: The surface display area (sign face) of any side of a billboard may not exceed three-hundred fifty (350) square feet and shall be continually maintained in good condition. No billboard shall exceed twenty-five (25) feet in width.
- e. Height: The top of the billboard shall not exceed twenty (20) feet above the average grade on a vacant lot and thirty-five (35) feet above the average grade on a lot with a main building. Average grade shall be determined by the greater of:
  - (1) The ground on which the billboard sits from the base of the structure to the nearest property line or one hundred (100) feet, whichever is less; or
  - (2) The grade of the abutting roadway.
- f. Lighting: A billboard may be illuminated, provided such illumination is confined to the surface of the sign and is so located as to avoid glare, upward light or reflection onto any portion of an adjacent street or highway, property, the path of on-coming vehicles, or any adjacent premises. Lighting of a billboard shall be of a continuous light and shall not have a flashing, intermittent, rotating, oscillating or similar effect.
- g. Setbacks: Billboards shall comply with setback requirements for principal buildings of the district in which it is located, as measured to the nearest part of the billboard.
- h. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of the structure, continued structural soundness, and continued readability of message.

## CHAPTER 9 IND – INDUSTRIAL DISTRICT

### SECTION 9.01 INTENT AND PURPOSE

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 9.02 TABLE OF USES

The following abbreviations apply to the Table of Uses:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.

NP: Not Permitted: The use is not permitted in the District.

<b>Table 9-1: Table of Uses</b>	<b>IND</b>
Accessory office areas related to principal uses	P
Airports and landing fields	SLU
Assembly of paperboard containers, building paper, building board, and bookbinding	P
Assembly or manufacturing facility under 10,000 square feet GFA ( <i>amended 2013</i> )	P
Assembly or manufacturing facility greater than 10,000 square feet GFA ( <i>amended 2013</i> )	SLU
Bulk oil, gasoline, liquid propane gas, and compressed natural gas distribution and storage facilities (including warehousing and transport facilities)	SLU
Commercial day care centers that are clearly incidental and accessory to the principal use	P
Commercial storage warehouse	P
Contractors yards, building material storage	P
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage	P
Freight forwarding, packing, and crating services	P
Laboratories including experimental, film, and testing	P
Lumber and wood products including millwork, prefabricated structural wood products and containers, not including logging camps	P
Lumberyards	P
Motor freight terminal including garaging and maintenance of equipment	SLU
Printing and publishing	P
Production of apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials	P
Production of food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionary, beverage and kindred foods	SLU
Production of household goods like jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, etc.	P

<b>Table 9-1: Table of Uses</b>	<b>IND</b>
Production of textile mill products including woven fabric, knit goods, dyeing, and finishing, floor coverings, yarn and thread and other textile goods	SLU
Production or assembly of furniture and fixtures	P
Public and utility service buildings	P
Research and development facilities	P
Retail sales of goods where sales are clearly incidental and accessory to the primary industrial use, provided that no more than 20% of usable floor area is dedicated to retail use	P
Salvage or junk yards	SLU
Sexually oriented businesses	SLU
Tool and die manufacturing facilities	P
Trade or industrial schools	SLU
Vehicle repair establishments, minor and major	P
Vehicle wash establishments	SLU
Veterinary clinic	P
Warehouses, cartage businesses	SLU
Waste treatment facilities	SLU
Water supply and treatment facilities	P
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products	P
Wireless Communication Tower	SLU
Wireless Communications Antenna when attached to a lawful existing telecommunications tower, water tower, or other structure, subject to overall height restrictions	P
Wind energy conversion systems (WECS)	SLU

### **SECTION 9.03 DEVELOPMENT REQUIREMENTS**

- A. Application and Review Requirements. Table 9-2 provides for application and review requirements for the IND District. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the Zoning Administrator.

Table 9-2: Application and Review Requirements		
Review Process	Application Requirements	Submission Deadline
<b>Site Plan Review (Chapter 12)</b>	Completed application form	15 days prior to the Planning Commission meeting, unless submitted with a Special Land Use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing Review Standards of Section 12.07	
	Complete site plans in accordance with Section 12.03	
<b>Special Land Uses (Chapter 11)</b>	Same as Site Plan Review	30 days prior to the Planning Commission meeting
	Narrative addressing Review Standards of Section 11.03 and applicable Specific Standards of Section 11.04	
<b>Rezoning</b>	Completed application form	30 days prior to the Planning Commission meeting
	Application fee/escrow fee	
	Property map showing property to be rezoned and surrounding properties and current zoning	
	Proof of ownership or interest in property	
	Legal description of property	

B. Lot, Yard, and Building Requirements. See Table 9-3 for lot, yard and building requirements.

Table 9-3: Lot, Yard, and Building Requirements			
Requirement			IND Industrial
Minimum Lot Requirements	Area		1 acre; within an industrial park, 20,000 sq. ft.
	Width		150 ft.
	Width to depth ratio		1:4
	Depth		200 ft.
	Maximum Coverage		75%
Setback Requirements	Front		50 ft.
	Side	One side	25 ft.
		Total 2 sides	50 ft.
		Adjacent to Residential District or Use lot line	50 ft.
	Rear	Adjacent to Nonresidential District	25 ft.
		Adjacent to Residential District	50 ft.
Building Requirements	Maximum Height		50 ft.

### C. Parking Requirements

1. Location of parking:
  - a. The off-street parking facilities required shall not be located within twenty (20) feet of the road right of way.
  - b. The side and rear yard setback areas common to an adjacent Residential District or use shall be a minimum of fifty (50) feet of which twenty (20) feet nearest the respective property line is to be developed as a buffer strip in accordance with Section 13.01.E. The buffer strip shall:
    - (1) Extend the entire depth of the side of the lot in the case of the side yard parking adjoining a Residential District or use, or the width of the rear of the lot in the case of rear yard parking adjoining a Residential District or use.
    - (2) The required buffer strip shall incorporate a minimum six (6) foot high landscape screen or fence.
    - (3) The Planning Commission may require a four (4) foot wall where noise and activity associated with a particular industrial use could be a nuisance to neighboring residential lands.
2. The amount of required off-street parking spaces for individual uses shall be determined in accordance with Table 9.4 and shall meet the dimensional requirements of Section 13.02.

<b>Table 9-4: Parking Space Requirements</b>	
<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
Accessory office areas related to principal uses	1 space per each 300 sq. ft. of UFA
Assembly or production uses: printing, publishing and bookbinding; chemical production; production of apparel, food products, household goods, textiles, furniture; and similar assembly and production uses	1 space per each 1,000 sq. ft. of GFA
Commercial day care centers where the use is clearly incidental and accessory to the primary use	1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Commercial storage warehouse	1 space for every storage unit (adjacent to the units) plus 1 for each employee.
Contractors yard, building materials storage	1 space for every storage unit (adjacent to the units) plus 1 for each employee.
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage	1 space
Freight forwarding, packing, and crating services	1 space for each 2,000 sq. ft. of GFA
Fuel depot	1 space per 1.5 employees on the largest shift

**Table 9-4: Parking Space Requirements**

<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
Laboratories including experimental, film, and testing	1 space for each 500 sq. ft. of UFA required for offices located on the premises
Lumber and wood products including millwork, prefabricated structural wood products and containers, not including logging camps	1 space per 1.5 employees on the largest shift
Lumberyards	1 space per each 300 sq. ft. of UFA office space plus 1 space per employee on the largest shift
Motor freight terminal including garaging and maintenance of equipment	1 space per each 1,000 sq. ft. of GFA of office space, plus 1 space per employee on the largest shift
Public and utility service buildings	1 space per each 300 sq. ft. of GFA
Research and development facilities	1 space for each 500 sq. ft. of UFA
Retail sales of goods where the sale is clearly incidental and accessory to the principal use	1 space per each 300 sq. ft. of UFA retail sales area
Salvage or junk yards	1 space per each 300 sq. ft. of UFA office space plus 1 space per employee on the largest shift
Sexually oriented businesses	1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes.
Tool and Die manufacturing facilities	1 space for each 1,000 sq. ft., plus those spaces required for offices located on the premises
Trade or industrial schools	1 space per employee plus, 1 space per every 2 students
Vehicle Repair, minor and major	3 spaces for each repair and service stall, plus one (1) space for every employee
Veterinary clinics	1 space for each 400 sq. ft. of UFA
Warehouses, cartage businesses	1 for each 2,000 sq. ft., plus that required for office space
Waste treatment facilities	1 space per employee, plus adequate spaces to store municipal vehicles
Water supply and treatment facilities	1 space per employee, plus adequate spaces to store municipal vehicles
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products	1 for each 2,000 sq. ft., plus GFA required for office space
Wireless communication tower	1 space per tower

- D. Signs. General sign regulations are listed in Section 13.05. The following signs are permitted in the Industrial District:
1. A non-illuminated real estate sign not exceeding thirty-two (32) square feet in area.
  2. Non-illuminated trespassing, safety, directional, caution or announcement signs or not exceeding two (2) square feet in area.
  3. On-site political signs not exceeding twenty four (24) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within ten (10) days of the election.
  4. Only time and temperature electronic message boards are permitted
  5. One (1) monument, or pole sign is permitted per property, regardless of the number of businesses there, except that one (1) additional freestanding sign may be erected per road frontage when the development has parallel frontage on more than one (1) major road or corner frontages on major roads totaling over five hundred (500) linear feet. Pole signs shall not exceed twenty (20) feet in height and monument shall not exceed ten (10) feet in height. Sign area shall be limited to two (2) square feet of area for every one (1) linear foot of road frontage but in no case shall the sign be larger than one hundred fifty (150) square feet in area.
  6. Wall, awning or bracket signs shall not exceed ten percent (10%) of the surface area of the front portion of the front building face and may be placed on any wall.
  7. Signs shall be attached to the main building or on a canopy.
  8. Signs shall not project above the roofline or cornice.
  9. A sign attached to a mansard shall be considered a wall sign.
  10. Billboards, subject to the following:
    - a. Spacing: Billboard supports shall be at least seventy-five (75) feet from any Residential District or use lot line and shall be spaced at least three hundred (300) feet from another billboard. This distance shall not be measured from across a street. Billboards shall be at least two hundred (200) feet from any intersection.
    - b. Area: No billboard may exceed three-hundred fifty (350) square feet. No billboard shall exceed twenty-five (25) feet in length.
    - c. Height: The top of the billboard shall not exceed twenty (20) feet above the average grade on a vacant lot and thirty-five (35) feet above the average grade on a lot with a main building. Average grade shall be determined by the greater of:
      - (1) the ground on which the billboard sits from the base of the structure to the nearest property line or one hundred (100) feet, whichever is less; or
      - (2) the grade of the abutting roadway.
    - d. Lighting: Billboards in all other areas shall not be illuminated because of their potential to bleed light, cast glare in the public right-of-way, distracting drivers; take attention from on-premise businesses; shine into adjacent residential areas and affect the resident's enjoyment of their property.

- e. Setbacks: Billboards shall comply with setback requirements of the District, as measured to the nearest part of the billboard.

## **CHAPTER 10**

### **PLANNED UNIT DEVELOPMENT DISTRICT - PUD**

#### **SECTION 10.01 INTENT AND PURPOSE**

Traditional zoning, with its rigid separation of uses into different zones under very restricted placement controls, has now been recognized as being inappropriate to many medium and large scale developments. Planned Unit Developments (PUD), which modify the traditional forms of zoning, permit a developer to secure advantages which can be passed on to the general public by virtue of more desirable and more economical development. This Chapter provides a controlled degree of flexibility in the placement of structures and lot sizes and types of uses, while maintaining adequate planning and development standards. The Planned Unit Development (PUD) provisions shall be applied as a separate Zoning District, in accordance with the regulations of this Chapter.

#### **SECTION 10.02 OBJECTIVES**

- A. The PUD Objectives are intended to guide the applicant in the preparation of the land use and development plan and they shall be used as a basis for the evaluation of the proposed PUD. The following Objectives shall be considered in reviewing an application for PUD zoning in order to realize the inherent advantages of coordinated, flexible, comprehensive, and long-range, planning and development of the PUD.
1. To provide more desirable living, shopping and working environments by preserving the natural character of open fields, stands of trees, brooks, ponds, floodplains, shorelines, hills, and similar natural assets.
  2. To encourage with regard to residential use the provision of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units.
  3. To encourage developers to use a more creative and imaginative approach in the development of residential areas.
  4. To provide more efficient and aesthetic use of open areas.
  5. To encourage innovation in the physical development pattern of the Community by providing a variety of housing arrangements with well designed access and circulation
  6. Ensure compatibility of design and function between neighboring properties.
  7. Promote efficient provision of public services and utilities.
- B. These Planned Unit Development regulations are not intended to be used for circumventing the more specific standards and requirements of this Ordinance, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the Shelby Community, assure a superior quality of development. If this improved quality is not clearly apparent upon Shelby Community review, a site shall not qualify for the modifications allowable under this Chapter.

#### **SECTION 10.03 ELIGIBILITY CRITERIA**

To be eligible for Planned Unit Development approval, the applicant must demonstrate that all of the following criteria will be met:

- A. Demonstrated Benefit: The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district:
1. Preservation of significant natural or historic features.
  2. Preservation of agricultural lands.
  3. A complementary mixture of uses or a variety of housing types.
  4. Common open space for passive or active recreational use. Noncontiguous open space is permitted but in no case shall the project open space be less than ten percent (10%) of the total site area.
  5. Redevelopment of a nonconforming site where creative design can address unique site constraints.
- B. Control of Property, Unified Agreement: Land owners involved in a proposed Planned Unit Development must provide a signed agreement among all involved parties, which is approved by the Community's attorney that indicates their unified approach to the PUD development concept.

#### **SECTION 10.04 PERMITTED USES**

- A. The following uses of land and structures may be permitted within a PUD.
1. Single-family detached dwellings.
  2. Two-family dwellings, provided that these units make up no more than twenty percent (20%) of the total number of residential dwelling units in the PUD.
  3. Multiple family dwellings, provided that these units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
  4. Golf courses, indoor tennis clubs, athletic clubs, and marinas, including ancillary commercial activities such as pro shops, restaurants (excluding those with drive through facilities), and similar uses, open only to members and their guests.
  5. Any "Permitted Use" within the C-1 District, provided that:
    - a. In the Township, the total site of the PUD is at least ten (10) contiguous acres; in the Village the site area must be at least two (2) contiguous acres.
    - b. The gross area designated for commercial use including parking, accessways, and yards or open space shall not exceed ten percent (10%) of the gross site area of the PUD;
    - c. All of the uses are integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.;
    - d. Such uses shall not materially alter the residential character of the neighborhood and/or the PUD;
    - e. All merchandise for display, sale or lease shall be entirely within an enclosed building(s); and
    - f. Buildings designed for commercial or office uses are constructed according to the following schedule:

- (1) If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five percent (75%) 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 percent (50%) of these units shall be constructed prior to the construction of any non-residential use.
  - (3) No commercial uses shall be established without the construction and occupancy of at least twenty (20) residential dwelling units or ten percent (10%) of the total number of residential units whichever is greater.
6. Accessory buildings, structures, and uses, as regulated by Section 3.11.

## **SECTION 10.05 APPLICATION AND REVIEW**

### **A. Process**

1. An application for a PUD shall consist of the following minimum requirements:
  - a. A fully completed and signed application form as provided by the respective Community.
  - b. The application review fee and any other fees required by the respective Community.
  - c. A legal description of the property to be included in the PUD.
  - d. Twelve (12) copies of a Preliminary Sketch Plan or Final Development Plan, completed in accordance with the requirements of this Chapter.
2. A Planned Unit Development approval shall require a rezoning from the existing zone district to the PUD District. The rezoning shall not be considered until approval of a Final PUD Plan has been granted.
3. Within one (1) year from the Preliminary Sketch Plan approval the applicant shall submit a Final PUD application and a petition for PUD rezoning. Failure to submit the application within this time will void the Preliminary Sketch Plan approval.
4. The Final PUD application will be submitted and reviewed in accordance with the requirements of this Chapter and the Zoning Act. Approval of the Final PUD will constitute approval of the rezoning.

### **B. Preliminary Sketch Plan**

1. An application for a PUD approval will be accompanied by a Preliminary Sketch Plan including maps and written statement, in twelve (12) copies, and shall be submitted to the Zoning Administrator.
2. The application shall be submitted at least thirty (30) days prior to the date of first consideration by the Planning Commission.
3. The Planning Commission shall review the Preliminary Sketch Plan to determine its conformance with the requirements of this Chapter.
4. The Preliminary Sketch Plan may be in general, schematic form containing, at a minimum, the following, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:

- a. A legal description of the site, reflecting area size and boundary line dimensions. A current, properly notated surveyor's map may be acceptable.
  - b. The Preliminary Sketch Plan shall show enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.
  - c. Existing and proposed land uses and their approximate location, character, density, and type, including the character and approximate net residential density being proposed.
  - d. Existing topographic character of the site.
  - e. Circulation patterns including roadways, drives, parking areas, and pedestrian ways.
  - f. Public uses including schools, parks, open space, etc.
  - g. Existing flood plains, bodies of water, wetlands and other unbuildable areas.
  - h. Existing significant natural features and planned open space.
5. A written statement shall also be submitted with the Preliminary Sketch Plan containing, at a minimum, the following information:
  - a. An explanation of the character of the PUD, the manner in which it has been planned to take advantage of the PUD regulations, and the manner in which it reflects the PUD Objectives of this Chapter.
  - b. Stages or phases in which the project will be built including the expected starting and completion dates of each phase.
  - c. A general indication of the expected schedule of development.
  - d. A general indication of the expected public interest to be served by the PUD and conformance of the PUD to the Shelby Community Master Plan.
  - e. A general statement regarding conformance to the development requirements for the PUD as stated in this Chapter.
  - f. An indication of any contemplated private deed restrictions or covenants.
  - g. A description of how the PUD meets the requirements of Section 10.03.
6. The Planning Commission shall review the Preliminary Sketch Plan and make recommendations to the applicant that will reasonably cause the Plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed Plan, but shall not be bound by any statements or indications of the general acceptance of the Plan.

**C. Final PUD**

1. Within one (1) year from the Preliminary Sketch Plan review the applicant shall submit an application for Final PUD and rezoning. Failure to submit a Final PUD application will render the preliminary approval null and void.
2. The application shall be submitted to the Zoning Administrator on a form supplied by the Community at least thirty (30) days prior to the date of first consideration by the Planning Commission.
3. The Final PUD application shall contain, at a minimum, the following, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
  - a. An application fee as established by the Legislative Body.
  - b. A final site plan as specified in Chapter 12 for the entire PUD or for one (1) or more phases of the PUD.
  - c. A development schedule indicating the approximate date for commencement of construction.
  - d. Agreements, provisions, or other covenants which will govern use, maintenance, and continued protection of the PUD and any of its common use or open space areas.
  - e. A legal description of the area to be rezoned.
4. Planning Commission Review
  - a. Upon receipt of an application for a Final PUD the Planning Commission shall conduct a public hearing, notice of which shall be given in accordance with the Zoning Act (see Section 15.03(B)).
  - b. Following the public hearing, the Planning Commission shall consider the application and submit a recommendation to the Legislative Body. The Planning Commission shall consider the following standards in formulating its recommendation:
    - (1) Conformance of the PUD request with the Shelby Community Master Plan.
    - (2) The overall objectives of PUD as stated in Section 10.02.
    - (3) The development requirements and permitted uses for the PUD.
    - (4) The site plan review standards of Chapter 12.
    - (5) Compatibility of the proposed PUD and its specific uses with existing and proposed development in the surrounding area.
    - (6) The proposed lot dimensions and building and yard requirements shall result in a higher quality of development than would be possible using conventional zoning standards.

5. Design Standards:
  - a. Building designs shall meet the standards of Section 3.29.
  - b. Density and height limits of the current underlying district shall not be increased more than twenty-five percent (25%).
  - c. Utilities shall be underground to the maximum extent feasible.
  - d. Dead-ends or cul-de-sacs serving the development are discouraged. Eyebrow, court, or stub streets are preferred.
  - e. Where adjoining areas are not subdivided, the arrangement of streets within the PUD may be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
  - f. Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views.
  - g. Site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots. The Planning Commission may recommend to the Legislative Body to require the development provide amenities such as bus stops or bus turn-outs.
  - h. Natural features shall be preserved to the maximum extent possible.
  - i. At least fifteen percent (15%) of the site shall be set aside as dedicated common open space. At least one third (1/3) of the common open space shall be usable open space. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach the recreational or common open spaces. Open space shall be permanently protected.
  - j. No building shall be sited on slopes steeper than fifteen percent (15%), within one hundred (100) feet of any ordinary high water mark, wetland, or on soil classified as being very poorly drained.
6. Legislative Body Decision
  - a. After receiving the recommendation of the Planning Commission, the Legislative Body shall review the application for the Final PUD rezoning and the Planning Commission recommendation. The Legislative Body shall then make its findings as to denial, approval, or approval with conditions of the rezoning in accordance with the proposed PUD plan, using the standards noted in Section 10.05, C, 4, b.
  - b. The PUD plan shall not be considered final until the applicant submits a written acceptance of the approved PUD. No building permits may be issued until the final approval is granted and the written acceptance has been received.
  - c. After final approval, the following requirements shall also be met, if applicable:
    - (1) Where the provisions of Act 288, Michigan Public Acts of 1967, as amended, (Land Division Act) shall apply, the applicant shall thereafter submit the information and plans as may be required by Act 288 and all other local procedures or regulations pertaining to planning approval.

- (2) The Legislative Body shall cause to have legal documents or contracts prepared which involve Shelby Township or the Village of Shelby and are required as a result of the conditions contained in the final approval included but not limited to: provision of public services, arrangements for the perpetual maintenance and protection of designated open space and description of the approved building designs and density. All contracts shall be executed and recorded in the office of the Oceana County Register of Deeds.
  7. The Zoning Administrator shall inspect the development at each stage to ensure reasonable compliance with the conditions of the Final PUD approval, the Final Site Plan and the approved schedule of improvements.
  8. If the PUD is to be developed in phases, the final site plan may be prepared for one (1) or more phases. Approval of the Final PUD shall be completed prior to the development of an individual phase. All phases must be generally consistent with the approved preliminary sketch plan for the PUD.
- D. Changes to an Approved PUD
1. Approval of the final site plan confers upon the Zoning Administrator the authority to approve certain minor deviations when an applicant or land owner who was granted site plan approval notifies the Zoning Administrator of the proposed amendment to the approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.
  2. The Zoning Administrator shall determine whether the change is major, warranting review by the Planning Commission, or minor, allowing administrative approval, as noted below.
  3. The Zoning Administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the PUD would not reduce the area devoted to open space, and all applicable regulations of this Ordinance will be met. The Zoning Administrator shall inform the Planning Commission and Legislative body of the approval in writing.
  4. The Zoning Administrator shall consider the following when determining a change to be minor:
    - a. For residential buildings, the square footage of structures may be reduced or increased by ten percent (10%) of the originally approved area, provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend into any required open space or required setback.
    - b. Gross floor area of non residential buildings may be decreased; or increased by up to three percent (3%) or two thousand (2,000) square feet, whichever is smaller, of the originally approved area, provided parking requirements are met, and the building does not extend into any required open space or required setback.
    - c. Floor plans may be changed if consistent with the character of the use.
    - d. Relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other requirements.

- e. Height of buildings may be lowered.
  - f. Designated woodlands or areas not to be disturbed may be increased.
  - g. Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced on a caliper per caliper basis on the site. For example, a 12-inch in diameter tree could be replaced with six (6) 2-inch in diameter trees.
  - h. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate.
  - i. Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the Zoning Administrator.
  - j. Grade change of up to one (1) foot, after review by the Community Engineer.
  - k. Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan.
  - l. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  - m. Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan.
  - n. Changes required or requested by the County or State for safety reasons.
5. Where the Zoning Administrator determines that a requested amendment to the approved site plan is major, re-submittal to the Planning Commission shall be required. Should the Planning Commission determine that the modifications are inconsistent with the approved preliminary PUD plan; a revised Preliminary Sketch Plan shall be submitted according to the procedures outlined in this Chapter. In all cases, a change in use to a more intensive use than approved in the Preliminary Sketch Plan shall be considered major and require resubmission of a new Preliminary Sketch Plan.
6. Decisions granting PUD approval or any regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD may be appealed to the Zoning Board of Appeals nor shall an application for variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan and otherwise meets the applicable review standards applicable to variances in this Ordinance.

#### **SECTION 10.06 DEVELOPMENT REQUIREMENTS**

- A. Open space may be established to separate use areas within the PUD, where significant natural features may be preserved, and/or be used for passive or active recreation.
- B. Open space, except for where trails and bike paths are located, shall have minimum dimension of one hundred (100) feet by one hundred (100) feet.
- C. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.

- D. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach recreational or common open spaces.
- E. Requirements for maintenance of the open space shall be provided. In the event that the open space is not adequately maintained, or is determined by the Zoning Administrator to be a public nuisance, the costs for maintenance shall be assessed upon the owners of the open space.
- F. All land set aside as open space shall be deed restricted to ensure that the open space is preserved in perpetuity. Land set aside for agriculture uses may, at the discretion of the property owner(s), be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development, unless an amendment to the PUD is applied for and approved.

## **CHAPTER 11**

### **SPECIAL LAND USES**

#### **SECTION 11.01 SCOPE**

This Chapter provides a set of procedures and standards for special uses of land or structures that, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the Community. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the Shelby Community. For purposes of this Ordinance, all Special Land Uses are subject to the requirements and standards of this Chapter.

#### **SECTION 11.02 APPLICATION AND REVIEW PROCEDURES**

- A. An application shall be submitted through the Clerk, accompanied by:
  - 1. The payment of a fee as established by the Legislative Body.
  - 2. A completed application form, as provided by the Community.
  - 3. A complete site plan in twelve (12) copies, as specified in Chapter 12.
- B. Applications for a Special Land Use shall be submitted with a site plan at least thirty (30) days prior to the next Planning Commission meeting at which the application is to be considered.
- C. The Planning Commission shall hold a public hearing on the application, with notice in accordance with the Zoning Act (see Section 15.03(B)). The Planning Commission shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the Community's planner, engineer, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed.
- D. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which in the opinion of the Zoning Administrator might reasonably result in favorable action upon resubmittal.
- E. A Special Land Use approved pursuant to this Chapter shall be valid for one (1) year from the date of approval. Each development shall be under construction and show substantial progress toward completion or begin operation of the approved activity within one (1) year after the date of approval of the Special Land Use, except as noted below.
  - 1. The Planning Commission may grant one (1) six (6) month extension of this time period, provided the applicant requests the extension in writing prior to the date of the expiration of the Special Land Use approval.
  - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  - 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.
- F. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable

requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the Special Land Use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification requirements for the original approval.

### **SECTION 11.03 GENERAL STANDARDS**

- A. In addition to the requirements established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in Section 12.07, and conditions, as authorized and governed by Section 12.08 may be placed upon a Special Land Use.
- B. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use:
  - 1. Be designed, constructed, operated and maintained so as 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. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;
  - 3. Not create excessive additional requirements at public cost for public facilities and services; and
  - 4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons or property in the vicinity, or the general welfare, by reason of excessive effects of traffic, noise, smoke, fumes, glare, or odors or other effects determined relevant by the Planning Commission.
- C. The Planning Commission may stipulate additional conditions and safeguards as deemed necessary to accomplish the General Standards and Specific Requirements of this Chapter. Failure to comply with these conditions may result in the revocation of the Special Land Use approval, pursuant to Section 11.02, F.

### **SECTION 11.04 SPECIAL LAND USE SPECIFIC REQUIREMENTS**

- A. The General Standards of Section 11.03, B, are basic to all Special Land Uses. The specific and detailed requirements set forth in this Section relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.
- B. **Agricultural service establishments.**
  - 1. These uses shall include, but need not be limited to, the following:
    - a. Grain elevators for storage, drying and sales
    - b. Bulk feed and fertilizer outlets and distribution centers
    - c. Seed dealership outlets and distribution centers
    - d. Grain and livestock, truck and cartage facilities
    - e. Agricultural products, production and processing operations
    - f. Auctions for livestock
    - g. Sawmill

2. Minimum lot or parcel size shall be two (2) acres and have a minimum lot frontage of three hundred thirty (330) feet.
3. Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Section 13.01.
4. No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
5. All buildings shall be set back a minimum of fifty (50) feet from any lot line.
6. All agricultural service establishments shall be located at least one hundred (100) feet from any driveway affecting access to a farm dwelling or field, and at least three hundred (300) feet from any single-family dwelling.

**C. Accessory apartments as part of a commercial use. (*amended 2013*)**

1. The gross floor area for all residential units shall not exceed twice the gross floor area of the commercial or office uses to which they are accessory.
2. Residential dwelling units shall meet the minimum floor area requirements applicable to multiple family units in the R-3 District.
3. Separate parking facilities will be provided for all dwelling units in accordance with the requirements of the R-3 District and Section 13.02.
4. In the C-1 district, accessory apartments located on the ground floor of the building are prohibited.

**D. Bed and breakfast establishments.**

1. The establishment shall be serviced by approved public or private water and sanitary sewer services.
2. The establishment shall be located on property with direct access to a public road.
3. These uses shall only be established in detached single family dwellings which shall be the principal residence of the operator.
4. Parking is required in accordance with Section 13.02 and the number of spaces required in the District. Specific spaces shall be designated for guest parking. Parking areas shall be located to minimize negative impacts on adjacent properties.
5. The lot on which the establishment is located shall meet the minimum lot size requirements of the Zone District.
6. 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.
7. 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.
8. 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.

9. 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.
10. Meals may be served only to the operator's family, employees, and overnight guests.

**E. Bulk oil, gasoline, liquid propane gas, and compressed natural gas distribution and storage facilities (including warehousing and transport facilities).**

1. 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 two (2) acres.
2. The lot shall be located so that at least one (1) side abuts a primary road, as designated by the County Road Commission, or State trunk line and all access shall be from that road.
3. 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.
4. Accessory buildings, if any, shall be approved by the Planning Commission in connection with the Special Land Use approval.
5. Fencing, lighting, security, and other appropriate conditions may be imposed which are more stringent than, but not inconsistent with, Federal or State requirements.
6. 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.
7. The site shall be designed to permit easy access by emergency vehicles.
8. 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.
9. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures will not cause the contamination of any groundwater source.

**F. Campgrounds, public or private, including travel trailer parks.**

1. Minimum lot size shall be three (3) acres. The lot shall provide direct vehicular access to a public street or road.
2. Public stations, housed in all-weather structures, containing adequate water outlet, waste container, toilet and shower facilities shall be provided.
3. No commercial enterprise shall be permitted to operate on the lot, except that a convenience shopping facility may be provided on a lot containing more than eighty (80) sites. This convenience store, excluding laundry and similar ancillary uses, shall not exceed a gross floor area of one thousand (1,000) square feet.
4. Each site shall contain a minimum of one thousand five hundred (1,500) square feet and shall be set back at least seventy five (75) feet from any public access drive, right-of-way or property line.
5. Each travel trailer site shall have direct access to a hard-surfaced, dust-free roadway of at least twenty four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway. Sites specifically designated for, and only used for, tent camping, need not have direct vehicular access to any street or road.

6. All sanitary facilities shall be designed and constructed in strict conformance to all applicable County health regulations.
7. At least fifteen (15) feet shall be provided between all travel trailers and tents.

**G. Cemeteries.**

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

**H. Commercial storage warehouses.**

1. The use shall be developed on lots of at least two (2) acres, but not more than five (5) acres in size. No more than sixty percent (60%) of the lot may be used for buildings, parking lots and access.
2. The lot shall abut and gain access from a primary road.
3. 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.
4. A six (6) foot fence of a material acceptable to the Planning Commission shall enclose the area occupied by the use. If the use is adjacent to a residential zone, the fence shall be screening. The fence shall be set back at least thirty (30) feet from the front property line.
5. The front yard, up to the fence, shall be landscaped in accordance with Section 13.01.
6. Outdoor storage of boats and recreational vehicles is permitted provided the storage area is properly screened in accordance with the provisions of Section 13.01.
7. Minimum side and rear yards as specified for the District shall be maintained. No storage is permitted within the required setback.
8. 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.
9. Traffic direction and parking shall be designated by signs or painting.
10. The storage of hazardous or toxic materials are prohibited.
11. 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.
12. Parking, 1 space for every storage unit (adjacent to the units) plus 1 for each employee.

**I. Drive-through facility other than a restaurant (e.g. bank, credit union, pharmacy, dry cleaner).**

1. 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 internal circulation of vehicles. A minimum of four (4) stacking spaces for each drive-through station shall be provided.

2. Parking areas shall have a front yard setback of forty (40) feet, and side and rear yard setbacks of ten (10) feet.
3. 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.
4. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward adjacent property.
5. Access driveways shall be at least fifty (50) feet from any adjacent property line.
6. 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.

**J. Elderly housing.**

1. 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.
2. 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.
3. All units in the building shall have a minimum of four hundred and fifty (450) square feet per unit.
4. A covered drop-off and pick-area shall be provided on-site in close proximity to the main entrance.
5. 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).
6. Maximum height shall not exceed three (3) stories or fifty (50) feet.

**K. Agri-tourism establishment (Township only). *(amended 2013)***

1. Minimum lot size shall be five (5) acres.
2. The bulk of farm products sold shall be grown or produced on the farm.
3. Farm market activities may include entertainment functions associated with the farm including, but not necessarily limited to, cider processing, donut making, pumpkin carving, hayrides, apple dunking, and Christmas tree cutting.
4. No activity or structure shall be located within fifty (50) feet of the public road right-of-way.
5. All parking shall be out of the public right of way. Agri-tourism establishments shall provide adequate off-street parking for guests, and such off-street parking arrangements shall be reviewed by the Planning Commission during site plan review..
6. The access drive which shall be wide enough to accommodate two (2) vehicles side-by-side. Two (2) access drives may be required by the Township where a facility is large enough to need additional access points.
7. 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.
8. Suitable containers for rubbish shall be placed on the premises for public use.

9. Hours of operation shall be limited between the hours of 7:00 a.m. and 10:00 p.m.

**L. Game farm.**

1. Minimum lot area shall be forty (40) acres.
2. All federal, state and county codes and ordinances in regard to firearms shall be strictly adhered to.
3. The site plan shall clearly indicate all safety zones to assure that any projectile fired within the boundaries shall not carry into or over an adjacent district or area.
4. The operator shall have the County Sheriff review and comment on the site plan prior to its review by the Planning Commission.
5. Signs designating the area as a hunting area shall be clearly posted not more than fifty (50) feet apart.
6. Hours of operation shall be between one half (½) hour before sunrise and one half (½) hour after sunset.

**M. Group day care homes.**

1. There shall be provided, equipped and maintained, on the premises, a minimum of one hundred and fifty (150) square feet of usable outdoor recreation area for each client of the facility.
2. The outdoor recreation area shall be fenced and screened from any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
3. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
4. The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.
5. The group day care home shall not be located closer than 1,500 feet to any of the following:
  - a. Another licensed group day care home.
  - b. Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
  - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
  - d. Community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
6. The operator shall maintain the property consistent with the visible characteristics of the neighborhood.
7. The group day care home shall not exceed 16 hours of operation during any 24 hour period. The Planning Commission may limit the operation of a group day care home between the hours of 10 p.m. and 6 a.m.
8. The group day care home may have a sign in accordance with Residential District requirements.

**N. Home-based business (Township only).**

1. Home-based businesses shall not include a vehicle repair or maintenance shop for hire, junk yards or scrapping operations, and uses which must meet special building code requirements such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems, and other such systems.
2. The following additional information shall be included with the Special Land Use application and associated site plan:
  - a. Type of business.
  - b. Hours of operation.
  - c. Number of employees.
  - d. Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
  - e. Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.
  - f. Anticipated traffic levels (customer, delivery vehicles, etc.).
3. The parcel containing the home-based business shall be a minimum of eighty thousand (80,000) square feet and shall contain a single family dwelling.
4. The home-based business shall be owned and operated by the owner of the dwelling located on the property.
5. No more than two (2) persons who are not residents of the dwelling shall be employed on the premises at which the home business is conducted.
6. Any need for parking generated by the conduct of such home business shall be provided off the road.
7. The home-based business may be conducted entirely within one (1) approved accessory building of up to three percent (3%) of the total land area of the parcel, not exceeding five thousand (5,000) square feet in area. All activities shall be conducted within that building and no outdoor storage of materials shall be permitted.
8. Parking of commercial grade vehicles shall be screened from public view and neighboring properties. No more than two (2) commercial grade vehicles are permitted.
9. The accessory building in which the home-based business is conducted shall have a minimum front setback of one hundred fifty (150) feet and shall not be closer than one hundred (100) feet to any side or rear property line.
10. The home based business shall not result in the alteration of the dwelling, nor the construction of an accessory building, which is not customary to dwellings and residential accessory buildings.
11. One (1) nonilluminated sign may be permitted for the home-based business, not exceeding six (6) square feet in area and not higher than four (4) feet above grade.
12. No merchandise, equipment, or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the main building.
13. The use shall not constitute a nuisance to surrounding property owners.

**O. Hotels/motels.**

1. Minimum lot area and minimum lot width:
  - a. C-1 District: Fifty thousand (50,000) square feet; lot width shall be one-hundred (100) feet.
  - b. All other districts: two (2) acres; lot width shall be two-hundred (200) feet.
2. 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.
3. 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.

**P. Intensive livestock operations (Township only).**

1. Minimum lot area shall be eighty (80) acres.
2. Any part of the operation, including storage pens, manure storage, feeding areas, and other similar activity areas shall be set back a minimum of one thousand (1,000) feet from the property lines of an adjacent residence or use, or a standing body of water, or flowing stream.
3. No direct runoff from any part of the proposed operation shall be permitted to flow onto any adjacent property.
4. All buildings, structures, enclosed areas, and storage areas for animals or animal waste associated with the operation shall be located at least two hundred (200) feet from a water well.
5. No livestock waste shall be discharged, allowed to seep or otherwise be released into any surface water or groundwater.
6. Manure and urine storage facilities must be of a sufficient capacity, design and maintenance to store all animal waste until such time as the waste can be transported and/or used as fertilizer. Storage facilities for manure and related waste must be designed, sited, constructed, maintained and operated so as to prevent any escape of livestock waste which may cause pollution or degradation of any surface water, groundwater or soil and be constructed and operated in accordance with an approved Animal Waste Management Plan, as required by this subsection.
7. Field storage of manure shall be sited and contained so as not to cause pollution or degradation of surface water, groundwater or soil.
8. No such operation shall be permitted where any lot line is within one thousand (1,000) feet of another intensive livestock operation's lot line.
9. In addition to meeting the requirements of Section 12.03, site plans shall contain the following additional information:
  - a. Locations of main buildings, manure storage areas, drainage, and truck loading/unloading areas and other areas where accessory activities may be conducted.
  - b. Separation distances between all facilities and uses associated with the intensive livestock operation and: adjacent property lines; on-site water wells; private

homes; and any water body or flood plain, including wetlands, streams, or designated county drains.

10. A copy of the approved Animal Waste Management Plan shall be provided to the Township. Upon commencement or expansion of an intensive livestock operation, the owner of the operation shall submit a written Animal Waste Management Plan (herein referred to as “the Plan”) prepared and signed by a professional agrologist, a person certified to develop these Plans (e.g., the Certified Crop Advisor Program of the American Society of Agronomy), or a qualified State agency official (e.g., cooperative extension agent). The Plan shall be prepared using generally accepted agricultural and management practice guidelines including but not limited to adopted procedures prepared by the Michigan Agricultural Commission, Natural Resource Conservation Service (Field Office Technical Guide), and Cooperative Extension Service (Resource Notebook). The Plan shall be submitted as part of the Special Land Use application and include and conform to the following narrative description including necessary drawings and/or diagrams as applicable:
  - a. Runoff control and wastewater management methods (for all areas where livestock density precludes sustaining vegetative growth on the soil).
  - b. Design, construction, operation, and maintenance methods for the treatment, storage and transportation of animal waste.
  - c. Method and quantities of manure utilization for crop production based on crop nutrient needs and soil nutrient levels.
  - d. Specifications on how excess manure that cannot be used for crop nutrients or another beneficial purpose will be treated to minimize environmental threats.

**Q. Kennels, commercial.**

1. The minimum lot size shall be two (2) acres.
2. 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.
3. 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.

**R. Migrant agricultural labor housing (Township Only). *(amended 2013)***

1. Migrant agricultural labor housing shall be located on forty (40) or more contiguous acres of land that are used for farming purposes.
2. Migrant agricultural labor housing shall only be used for persons primarily employed by the owner of the farm and their families.
3. The rules, regulations, and standards of the State of Michigan governing the licensing and operation of migrant agricultural labor housing shall apply where any dwelling or manufactured home is used to house five (5) or more seasonal workers. A license granted by the State of Michigan for migrant agricultural labor housing shall be provided to the Township prior to occupancy each year.
4. Migrant agricultural labor housing shall be located at least one hundred (100) feet from any public road, at least two hundred (200) feet from any other property line and five hundred (500) feet from any dwelling on adjacent property.

5. No newly constructed migrant agricultural labor housing unit shall have more than one (1) story nor accommodate more than one (1) family, although migrant agricultural labor housing may be occupied by a group of people that are not a family as defined in this Ordinance.
6. In no case shall migrant agricultural labor housing be occupied by more people than permitted in the State of Michigan's Rules for Agricultural Labor Camps.
7. To ensure adequate access for emergency vehicles and personnel, no migrant agricultural labor housing unit shall be located closer than thirty (30) feet to a driveway or private road and no closer than ten (10) feet to any other building or structure.
8. All construction of migrant agricultural labor housing shall conform to the building codes adopted by the Township and other Ordinances where such regulations impose greater standards than State and Federal regulations. Migrant agricultural labor housing shall meet the standards of Section 3.15 of this Ordinance.
9. Migrant agricultural labor housing located in a manufactured home that is not occupied by seasonal workers for three (3) consecutive years shall be removed by the owner within six (6) months. Manufactured homes used for migrant agricultural labor housing shall comply with Section 3.15 of this Ordinance.

**S. Mortuary or funeral home.**

1. Minimum lot area shall be eighty thousand (80,000) square feet with a minimum width of two hundred (200) feet.
2. 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.
3. A caretaker's residence may be provided within the main building.
4. The proposed site shall front upon a paved public street. All ingress and egress shall be from this thoroughfare.

**T. Motor freight terminal, including garaging and maintenance of equipment.**

1. Minimum lot size shall be three (3) acres.
2. At least one (1) property line shall abut a paved County Primary road. The ingress and egress for all vehicles shall be directly from the paved county road.
3. The main and accessory buildings shall be set back at least seventy five (75) feet from all property lines.
4. 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.

**U. Multiple family dwellings (Village Only).**

1. Parking areas shall have a minimum front yard setback of twenty (20) feet and minimum side and rear yard setbacks of ten (10) feet.
2. 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.

3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any adjacent Residential District or use.

**V. Open air businesses.**

1. Minimum lot area shall be eighty thousand (80,000) square feet.
2. Minimum lot width shall be two hundred (200) feet.
3. 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.
4. All open air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
5. 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 so as to dispose of all surface water.
6. 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.
7. All lighting shall be shielded from adjacent residential areas.
8. No display area shall be located within twenty (20) feet of a public road right-of-way line.

**W. Open space developments (Township Only).**

1. Description and Purpose. The purpose of an Open Space Development (OSD) is to permit greater flexibility in development than is generally possible under standard District regulations. The intent of the regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the township, ensuring access to open spaces, foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be developed but will be preserved as a result of the OSD, and other design objectives intended to foster an improved living environment.
2. Qualifying Conditions
  - a. The tract of land for which a OSD application is received must be either in one (1) ownership or the subject of an application filed jointly by the owners of all affected properties.
  - b. The property which is the subject of an OSD application must be a minimum of twenty (20) contiguous acres. The Planning Commission may consider a lesser development size if the proposed project substantially forwards the purpose of the OSD regulations.
  - c. The applicant must demonstrate that the property proposed for the OSD contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which could be otherwise be developed but will be preserved as a result of the OSD.
  - d. Only traditional farming activities (except intensive livestock operations) and single family dwellings and their accessory uses may be approved as part of the OSD.

### 3. Review Procedures

#### a. Sketch Plan Approval

- (1) To be considered as a OSD the applicant shall be required to first receive approval of a sketch plan in accordance with the requirements of this Chapter.
- (2) In addition to the requirements of Chapter 12, the application materials shall include twelve (12) copies of all of the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:

- (a) Written documentation that the proposal meets the standards of this subsection.

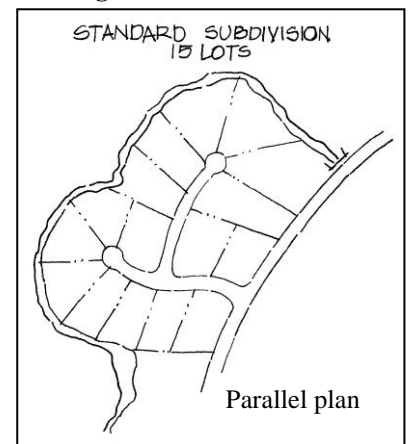
- (b) If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.

- (c) Arrangement and area calculations for open space, including upland and wetland open space areas.

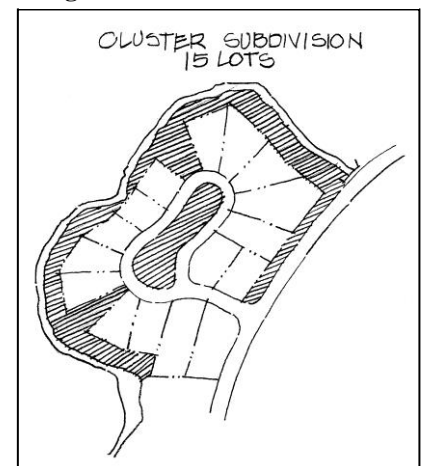
- (d) Parallel Plan: The maximum base density and number of dwelling units permitted in the OSD shall be determined through the completion and submission of a parallel plan which shall indicate the number of dwelling units that may be developed under the existing zoning classification. The parallel plan shall meet the following minimum requirements:

- i. The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each indicated lot and/or dwelling unit. The Planning Commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan.
    - ii. All lots or buildings shown on the parallel plan shall be located on buildable lots, which, for the purposes of this Section shall mean lots or building areas that have an areas of sufficient size and shape to accommodate the

**Figure 12: Parallel Plan**



**Figure 13: Cluster Subdivision**



- proposed main building septic and well systems (where no public sanitary sewer or water system is to be used), and required driveways, streets, or other means of permitted access.
- iii. Areas of wetlands, water bodies, and other unbuildable areas shall not be included within buildable areas, but may be included in the lot area calculations.
  - iv. While intended as a conceptual plan, the Planning Commission shall only approve the parallel plan after a determination is found that the submitted plan would otherwise be approvable under current Township ordinances and review considerations.
4. **Density Bonus:** In order to preserve the maximum amount of open space, an OSD may permit an increase in the number of dwelling units above the base density established in the parallel plan.
- a. In no case shall the density bonus exceed fifty percent (50%) of the base density.
  - b. The OSD may qualify for density bonuses in accordance with the following:
- | Facility/Open Space Provided               |                | Density Bonus |
|--|----------------|---------------|
| Open Space                                 | 60% open space | 10%           |
|  | 70% open space | 20%           |
| Community or Public Sanitary Sewer Service |                | 30%           |
| Community or Public Water Service          |                | 20%           |
- c. For the purposes of this Section, community sanitary sewer service shall be defined as all aspects of a complete system required to properly collect, treat, and dispose of wastewater from all of the individual dwelling units or other buildings within the OSD, including all pumps, pipes, laterals, controls, valves, treatment units, and other equipment necessary to collect, treat, and dispose of wastewater at a central location.
  - d. Community water service shall be defined as all aspects of a complete system required to draw water from a groundwater source, including all pumps, pipes, laterals, controls, valves, and other equipment necessary to provide potable domestic water to all of the individual dwelling units or other buildings within the OSD from a central location or water source.
5. The Planning Commission shall review the sketch plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, the sketch plan.
6. **Final Site Plan Approval**
- a. After receiving approval of a sketch plan the applicant shall within one (1) year submit a final site plan to the Planning Commission.

- b. The final site plan may be for either the entire project or for one (1) or more phases.
- c. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
  - (1) Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file the application.
  - (2) If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
  - (3) Arrangement and area calculations for open space, including upland and wetland open space areas.
  - (4) A completed application form, supplied by the Zoning Administrator.
  - (5) A final site plan meeting the requirements of Chapter 12.
- d. Failure to submit a final site plan for approval within the one (1) year period shall void the previous sketch plan approval and a new application shall be required to be submitted and approved in accordance with these provisions.
- e. The Planning Commission shall deny, approve, or approve with conditions, the final site plan for the OSD.
- f. Major changes in the final site plan shall be submitted to the Township pursuant to the procedures applicable to the original application.
- g. Open Space: Any open space provided in the OSD shall meet the following considerations and requirements:
  - (1) 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, so that all properties within the entire OSD may utilize the available open space.
  - (2) The OSD shall have a minimum of fifty percent (50%) open space. Any area used in the calculation of required open space shall have a minimum dimension of fifty (50) feet.
  - (3) All land set aside as open space shall be deed restricted, protected by conservation easement, or other similar permanent restriction, to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.

- (4) All open space shall be in the joint ownership of the property owners within the OSD. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space.
  - h. Development Setback
    - (1) Any building area, which for the purposes of this Section shall mean any lot on which a main use is located, shall be located at least two hundred (200) feet from any public street right-of-way not constructed as part of the OSD.
    - (2) No native or natural vegetation shall be removed from the two hundred (200) foot setback, nor any grading or changes in topography occur, except that necessary for entrance roads, required utilities, or drainage improvements. The Planning Commission may require natural vegetation to augment the natural buffer.
    - (3) The Planning Commission may reduce this setback if existing landscaping provides a natural screen, or the proposed development provides a landscape screen. In any case, the setback shall be not less than one hundred (100) feet. The one hundred (100) foot landscape screen shall meet all of the following minimum requirements:
      - (a) Occupy at least seventy percent (70%) of the lineal distance of the property line abutting any public street right-of-way.
      - (b) Be on a strip of unoccupied land at least fifty (50) feet in depth.
      - (c) Have at least fifty percent (50%) opacity from the roadside view at the time of planting.
      - (d) Consist of existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.
    - (4) OSD sites abutting more than one (1) public street shall be permitted to reduce the setback on the shortest side of the abutting streets to one hundred (100) feet without a natural screen. No native or natural vegetation shall be removed from the one hundred (100) foot setback, nor any grading or changes in topography occur, except that as may be necessary for entrance roads or utilities.
- 7. Design Principles: The overall intent of the Open Space Development regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the community, ensuring access to open spaces, preserving natural features, and other design objectives intended to foster an improved living environment. To this end the following general guidelines will be considered by the Planning Commission in evaluating proposed Open Space Developments.
  - a. Open space should be provided where significant natural features may be preserved, active agricultural land maintained, or be used for passive or active recreation.
  - b. Open space should generally be used to group areas of residential neighborhoods as clusters of housing units. This is intended to avoid the suburban development

type normally found in urbanized areas. Generally, neighborhood clusters should have not more than eight to ten (8-10) units per cluster for projects of less than fifty (50) dwelling units and not more than ten to fifteen (10-15) for projects with fifty (50) or more dwelling units.

- c. The Open Space Development should be designed with due regard for views from adjacent roadways as well as adjacent properties. Where possible, substantial setbacks from adjacent development should be provided, except where internal roadways are designed to connect to adjacent properties for the purposes of providing a network of internal connections between properties.
- d. Open space within the development should generally be accessible from as many places within the development as possible, rather than limited to individual easements between development lots. To this end, providing open space segments along the internal roadways will be considered a high priority by the Township. These areas should be large enough to appear as open space, rather than a vacant lot for future development, and kept in their natural state. These areas may, however, incorporate trails or other internal pedestrian circulation paths.
- e. The overall design of the Open Space Development should emphasize the rural character of the township, provide views to open spaces from as many areas of the development as possible, and avoid long, straight street segments and rows of homes.

8. Review Standards

- a. The following review standards will be used by the Planning Commission in its consideration of an OSD. Before these developments may be approved the Planning Commission shall find:
  - (1) That the OSD meets the stated purposes of this Subsection
  - (2) The OSD is in substantial compliance with the design principles of this Section.
  - (3) That the OSD does not substantially alter the character of the general neighborhood in which the development is proposed.
  - (4) That the location of the buildings of the OSD do not unduly impact other single family uses in the vicinity of the proposed development.
  - (5) That the OSD preserves, in perpetuity, unique site conditions, such as significant natural features, large open space areas, or active agricultural land.
  - (6) That the OSD can accommodate adequate and safe disposal of sanitary sewer and can provide an adequate, assured source of water for domestic use.

**X. Public and utility service buildings.**

- 1. Buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.

2. Any building shall comply with the yard setback requirements for main buildings of the District in which it is located.

**Y. Recreation facilities, indoor and outdoor.**

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.
2. Main buildings shall be set back a minimum of one-hundred (100) feet from any Residential District or use property line.
3. 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.
4. Access driveways shall be located no less than one hundred (100) feet from the nearest part of the intersection of any street or any other driveway.

**Z. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.**

1. Unless it meets the standards of Section 3.03, no soil, sand, gravel, or other earth material shall be removed from any land within the Community without Special Land Use approval.
2. In addition to the materials required by this Chapter, the application for Special Land Use approval shall include the following:
  - a. Twelve (12) copies of a plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following:
    - (1) A north arrow, scale, and date;
    - (2) shading indicating the extent of land area on which mineral removal operations and activities will take place;
    - (3) the location, width, and grade of all easements or rights-of-way on or abutting the lands;
    - (4) the location and nature of all structures on the lands;
    - (5) the location and direction of all water courses and flood control channels which may be affected by the mineral removal operations;
    - (6) existing elevations of the lands at intervals of not more than five (5) feet;
    - (7) typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table;
    - (8) mineral processing and storage areas;
    - (9) topsoil stockpile areas;
    - (10) proposed fencing, gates, parking areas, and signs;

- (11) roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles;
  - (12) a map showing access routes between the subject lands and the nearest County Primary Arterial road; and
  - (13) areas to be used for ponding.
- 3. A narrative description and explanation of the proposed mineral removal operations and activities; including the date of commencement, proposed hours and days of operation, estimated by type and quantity of mineral materials to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to ensure compliance with the conditions of this subsection.
- 4. A site rehabilitation plan including the following:
  - a. A description of planned site rehabilitation and end-use(s), including methods of accomplishment, phasing, and timing;
  - b. A plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five (5) feet; water courses, ponds, or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end-use(s); and
  - c. A description of the proposed methods or features which will ensure that the end-use(s) are feasible and will comply with the Shelby Community Master Plan and all applicable requirements of this Ordinance.
  - d. The Planning Commission may require an environmental assessment statement, engineering data, or other additional information concerning the need for and consequences of the extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.
- 5. Each site rehabilitation plan shall be reviewed by the Planning Commission and shall comply with all of the following :
  - a. Topsoil shall be replaced on the site to a depth of not less than four (4) inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation. Slopes shall be graded and stabilized to accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.
  - b. Final slopes shall have a ratio of not more than one (1) foot of elevation to three (3) feet of horizontal distance.
  - c. Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.

6. No machinery shall be erected or maintained within one hundred (100) feet of any property or street line. No cut or excavation shall be made closer than one hundred (100) feet to any street right-of-way line or property line in order to ensure sublater support to surrounding property. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located in or within two hundred (200) feet of any Residential District or use property line.
7. The Planning Commission shall approve routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to nearby properties. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the Planning Commission to minimize dust, mud, and debris being carried onto the public street.
8. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.
9. During activities and operations for the removal of mineral material, no mineral material or other excavated materials shall be left during weekends or overnight in a condition or manner so as to constitute a danger to children or others who may enter the removal areas. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one (1) foot of elevation for each two (2) feet of horizontal distance, after the cessation of daily operations, provided, however, that the Planning Commission may allow some lesser daily grading requirement if the applicant provides a substantially constructed and maintained welded wire fence, or fence of equally substantial material, of at least four (4) feet in height, so located that any slopes steeper than one (1) foot of elevation for each two (2) feet of horizontal distance cannot inadvertently be approached by any persons who may enter the removal area.
10. The Planning Commission may require compliance with any other conditions as may be necessary to ensure compliance with the terms of this subsection. These conditions may include, though need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.
11. An applicant for a permit shall submit a performance bond in accordance with the requirements of this Ordinance, naming the Shelby Township or Village, as applicable as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond shall have other applicable terms and shall be in an amount as is recommended by the Planning Commission as reasonably necessary to ensure compliance with all of the terms and conditions of this subsection and the permit.
  - a. The performance bond shall not be refunded, reduced, or transferred until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the Zoning Administrator and until the Planning Commission has determined that the applicant, or its successor, has fully complied with all of the terms, conditions, site rehabilitation and restoration requirements, and all other matters required of the applicant under the terms of the permit.

- b. The timely and faithful compliance with all of the provisions of the performance bond shall be a condition of any mineral removal operations. In the absence of compliance with the terms of the performance bond, or if the same is revoked or it expires or is not renewed, the Planning Commission need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.

**AA. Restaurants with drive-through facilities.**

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into a private or public right-of-way, with a minimum of ten (10) stacking spaces. Stacking spaces shall be located so as not to interfere with vehicular circulation, access to parking spaces, and egress from the property by vehicles not using the drive-through facility.
2. In addition to parking space requirements, at least three (3) parking or waiting spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Any paved area shall have minimum side and rear yard setback of twenty (20) feet.
4. Public 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 access.
5. 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.
6. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
7. Outdoor menu boards shall be located behind the front building line.

**BB. Retail establishments over ten thousand (10,000) square feet gross floor area.**

1. 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.
2. Any main building shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
3. 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.
4. No mechanical rooms or loading area shall be located nearer than fifty (50) feet to any Residential District or use property line.
5. All buildings shall comply with the design standards of Section 3.29.

**CC. Retail garden and landscape supply stores.**

1. Minimum lot size shall be two (2) acres.

2. The lot area used for parking, display, or storage shall be provided with a permanent, durable and dustless surface, and shall be graded and drained so as to dispose of all surface water.
3. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
4. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.
5. All loading activities and parking areas shall be provided on the same premises (off-street).
6. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
7. Ingress and egress to the lot shall be from a paved County Primary road.

**DD. Salvage or junk yards.**

1. Minimum lot size shall be five (5) acres.
2. 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.
3. 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.
4. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or use property line.
5. 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.
6. 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.
7. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
8. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
9. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
10. All portions of the storage area shall be accessible to emergency vehicles.

11. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
12. 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 which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
13. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
14. All fences shall be set back a minimum of fifty (50) feet from any Residential District or use property line.
15. All salvage activities shall take place within an enclosed building.
16. In order 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.
17. 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 standards.

**EE. Sexually Oriented Businesses.**

1. In the development and execution of this subsection, it is recognized that there are some uses which, 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, thereby having a detrimental effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities which are prohibited in other Sections of the Zoning Ordinance.
2. Sexually oriented businesses shall comply with the following requirements:
  - a. 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.
  - b. No sexually oriented business shall be located within five hundred (500) feet of any Residential District, or within five hundred (500) feet of any Open Space Development (OSD), or other development which contains dwellings.
  - c. Any sign or signs proposed for an 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.

- d. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that:
  - (1) "Persons under the age of 18 years are not permitted to enter the premises." and,
  - (2) "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."
- e. 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.
- f. 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.
- g. No sexually oriented business shall be open for business prior to ten o'clock a.m. 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.
- h. 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 which 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 Community, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
- i. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission, as provided herein.

**FF. Vehicle service stations and vehicle repair, minor and major.**

- 1. Minimum lot area shall be eighty thousand (80,000) square feet.
- 2. Minimum lot width shall be two hundred (200) feet.
- 3. No more than one (1) curb opening shall be permitted for every one hundred (100) feet of frontage (or major fraction thereof) along any street, with a maximum of one (1) per street when located on a corner lot, and two (2) for any other street.
- 4. No drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection nor more than twenty-five (25) feet to any adjacent Residential District property line. No drive shall be located nearer than fifty (50) feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.

5. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and formal landscaped areas.
6. All areas for driving and parking shall be paved.
7. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifty (50) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street or right-of-way.
8. When adjoining a Residential District parking and storage areas 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.
9. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight-obscuring wall or fence. No outside storage area shall exceed an area of two hundred (200) square feet. Outside parking of disabled, wrecked, or partially dismantled vehicles (not to exceed a maximum of five (5) vehicles) shall not be permitted for a period exceeding ten (10) days.
10. The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the Planning Commission. If the use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the Planning Commission.
11. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of the lights from view by adjacent property.
12. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.

**GG. Vehicle wash establishments, either self-serve or automatic.**

1. All washing activities must be carried on within a building.
2. Vacuuming activities may not be conducted in any required yard.
3. Each wash bay shall provide a minimum of three (3) stacking spaces.
4. Each self-service vacuum station shall provide at least one (1) stacking space.

**HH. Veterinary hospitals and animal clinics.**

1. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling.,
2. No dog runs and/or exercise areas shall be located in any required front, rear or side yard setback area.

**II. Wireless communication towers.**

1. These provisions shall not apply to towers located on existing buildings, or to antenna located on existing structures.
2. A television, radio, cellular or wireless communication tower shall meet these required standards:
  - a. Antennas for Commercial Wireless Telecommunication Services

- (1) Antennas for Commercial Wireless Telecommunications Services shall be required to locate on any existing or approved tower or suitable publicly- or privately-owned structure within a three (3) mile radius of the proposed tower unless one (1) or more of the following conditions exists:
    - (a) The planned equipment would exceed the structural capacity of the existing or approved structure, tower or building, as documented by a qualified and registered professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - (b) The planned equipment would cause interference materially affecting the usability of other existing or planned equipment at the structure, tower or building as documented by a qualified and registered professional engineer and the interference cannot be prevented at a reasonable cost.
    - (c) Existing or approved structures, towers and buildings within a three (3) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.
    - (d) Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing structure, tower or building.
3. Any proposed tower for Commercial Wireless Telecommunication Services shall be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two (2) additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights. Adequate space shall be reserved on the site for ground-mounted equipment serving the additional users.
4. Communications towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities. Towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.
5. The tower base shall be setback from all lot lines a minimum distance equal to one-half (½) the height of the tower. The tower height shall be measured from the grade at the base of the tower to the topmost element of the tower and all antennae.
6. Tower height shall be limited to three hundred (300) feet, including antenna.
7. The Planning Commission may require structures or equipment on the ground to be screened with landscaping, berms, walls, or a combination of these elements.
8. Communications towers shall not be illuminated unless required by other state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.
9. A performance guarantee shall be provided for communication towers to ensure that if they are abandoned or unused the tower shall be removed, along with any associated structures or equipment, within twelve (12) months of the cessation of operations, unless

a time extension is granted by the Zoning Administrator. One (1) three (3) month extension shall be permitted only if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to ensure its removal or reactivate its use.

**JJ. Wind Energy Conversions Systems (WECS).**

1. These facilities may be a principal use or an accessory use on a parcel.
2. Minimum lot size for a commercial WECS shall be twenty (20) acres, but a minimum of five (5) acres of site area is required for each WECS proposed within an eligible property. Minimum lot size for a non-commercial WECS shall be five (5) acres.
3. In addition to the requirements for site plan application and review outlined in Section 12.03, C, the following information shall be include with any application of a Special Land Use for a WECS:
  - a. Location of overhead electrical transmission or distribution lines.
  - b. Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
  - c. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the site housing the WECS. The boundaries to include the outermost locations upon which towers, structures, fencing, facilities, and other items associated with a WECS are placed. Specific distances to other on-site buildings, structures, and utilities shall be provided.
  - d. A proper buffer or greenbelt to screen the use from any adjacent Residential District or use and the public road as outlined in Section 13.01.
  - e. Existing and proposed setbacks of all structures located on the property in question.
  - f. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.
  - g. Access road to the WECS facility with detail on dimensions, composition, and maintenance.
  - h. Planned security measures to prevent unauthorized trespass and access.
  - i. WECS maintenance programs shall be provided that describes the maintenance program used to maintain the WECS, including removal when determined to be obsolete.
4. A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code;

drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.

5. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code. Additionally, WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the Community.
6. A minimum of a six (6) foot tall fence shall be provided around the perimeter of the WECS, or in the case of several WECSs, around the perimeter of the site.
7. No part of a WECS shall be located within or above any required front, side or rear yard setback of the Zoning District in which it is located.
8. WECS towers shall be setback from the closest property line one (2) feet for every one (1) foot of system height.
9. WECS shall not be located within thirty (30) feet of an above ground utility line.
10. The height of a WECS shall be measured from grade to the height of the blade in the vertical position or the highest point of the WECS, whichever is greater. Maximum height for a commercial WESC shall be two hundred (200) feet for a commercial WECS and add maximum height of one hundred and thirty (130) feet for a non-commercial WECS.
11. WESC shall be of monopole design and shall not have guy wires.
12. Colors and surface treatment of the WECS and supporting structures shall minimize disruption of the natural characteristics of the site. No part of the structure shall be used for signs or advertising.
13. Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure, land or tree within a two hundred (200) foot radius of the tower.
14. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
  - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
  - b. A locked anti-climb device shall be installed on the tower.
  - c. Tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
15. Each WECS shall have one (1) sign, not to exceed two (2) square feet in area posted at the base of the tower. The sign shall contain the following information:
  - a. Warning high voltage.
  - b. Manufacturer's name.
  - c. Emergency phone number.
  - d. Emergency shutdown procedures.
16. WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations.
17. WECS shall be designed and constructed so as not to cause radio and television interference.

18. Noise emanating from the operation of WECS shall not exceed sixty-five (65) decibels, as measured on the dBA scale, measured at the nearest property line. Estimates of noise levels shall be provided by applicant for property lines for normal operating conditions.
19. Any proposed WECS shall not produce vibrations humanly perceptible beyond the property on which it is located.
20. The on-site electrical transmission lines connecting the WECS to the public utility electricity distribution system shall be located underground.
21. The WECS shall be located and designed such that shadow flicker will not fall on, or in, any existing residential structure.
22. No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented upon it. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the Community.
23. The Community hereby reserves the right upon issuing any WECS special land use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.
24. Any WECS which are not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. The Community shall require a performance guarantee in accordance with the provisions of Section 15.09 to ensure enforcement of this requirement.

**KK. Manufacturing or Assembly Facility (*amended 2013*)**

1. The applicant shall disclose the nature and quantity of all chemicals, hazardous materials to be used or stored on site and all uses and activities shall at all times comply with any applicable local, state or federal requirements.
2. No toxic or hazardous materials shall be discharged to groundwater or surface waters, nor shall such materials be discharged to any public or private wastewater system except as permitted by appropriate authorities.
3. All manufacturing and/or assembly activities shall take place inside a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.
4. All local, county, state, and federal laws, statutory, and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permitted issued pursuant to this section.
5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
6. The Planning Commission may require additional open space and landscape buffer screening the proposed special use from adjacent property.
7. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.

## **CHAPTER 12**

### **SITE PLAN REVIEW**

#### **SECTION 12.01 PURPOSE**

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may realize planned objectives in the use of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity.

#### **SECTION 12.02 SITE PLANS REVIEWED**

- A. In accordance with the provisions of this Chapter, a Site Plan Review by the Planning Commission shall be required prior to the establishment of a new use or the erection of a building in the Districts and conditions cited below, unless excepted by B, below:
1. All Permitted Uses in the following Districts:
    - a. R-4 Manufactured Home Community
    - b. C-1 Central Business District
    - c. C-2 General Business District
    - d. C-3 Highway Business District
    - e. IND Industrial District
  2. PUD Planned Unit Development District
  3. Multiple-family dwellings.
  4. Special Land Uses.
  5. Site condominiums.
  6. Subdivisions. Further, a public hearing shall be conducted under the procedures of Section 15.03.
  7. Grading, excavation, filling, soil removal, creation of ponds or tree clearing over one (1) acre.
- B. Site plan review and approval by the Planning Commission shall not be required for single family detached dwellings (except as may be provided in a site condominium development), agricultural uses, a change of use or interior remodeling that does not result in the change in the building footprint or parking requirements, family foster care or day care facilities, and accessory buildings and uses. Site plan review for these uses will be conducted by the Zoning Administrator.

#### **SECTION 12.03 SITE PLAN REVIEW REQUIREMENTS**

- A. Optional Preliminary Site Plan Review
1. Twelve (12) copies of a preliminary site plan may be submitted by the applicant for review by the Planning Commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans

prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.

2. Preliminary site plan submittal shall include the information as listed within subsection C, below, unless deemed unnecessary by the Zoning Administrator. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1" = 100').
3. The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

**B. Final Site Plan Review**

1. If submission of a preliminary site plan is not desired by the applicant, twelve (12) copies of a final site plan prepared by a professional competent in these matters may be submitted for review without first receiving a review of a preliminary plan. Final site plans shall be at a scale not less than one inch equals twenty feet (1"=20') for property under three (3) acres and at least one inch equals one hundred feet (1"=100') for those three (3) acres or more.
2. Applications for final site plan reviews shall include the information as listed within subsection C, below, unless deemed unnecessary by the Zoning Administrator.

**C. Required Site Plan Submission Requirements**

<b>Preliminary and Final Site Plan Requirements</b>	
A location sketch showing at minimum, properties, roads and use of land within ½ mile of the area for the Township and within 400 ft. for the Village.	
Zoning of surrounding properties.	
Legal description of the subject property.	
The date, north arrow, and scale.	
Name and address of the property owner or petitioner.	
Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared/revised.	
Existing zoning and use of all properties abutting the subject property.	
All buildings, parking and driveways within 100 feet of all property lines.	
Narrative: Shown on the site plan or submitted separately, describing in general terms:	The overall objectives of the proposed development.
	Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public roads and drives, and open space.
	Dwelling unit densities by type, if applicable.
	Proposed method of providing sewer and water service, as well as other public and private utilities.
Proposed method of providing storm drainage.	
Property lines and approximate dimensions.	
Existing adjacent roads and proposed roads.	

Parking lots and access points.
Proposed buffer strips or screening.
Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.
Any signs not attached to the building(s).
General topographical features at contour intervals no greater than 5 feet.
Existing and proposed uses, buildings and structures.
<b>Final Site Plan Requirements</b>
Seal, name, and firm address of the professional individual responsible for the preparation of the site plan.
Property lines and required setbacks shown and dimensioned.
Dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.
Size and location of existing and proposed utilities, including any proposed connections to public, or private community sewer or water supply systems.
All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
Existing and proposed topographic contours - minimum 2 foot intervals.
Pavement width and right-of-way width of all roads, streets, access easements and driveways within 100 feet of the subject property.
Location and size of all surface water drainage facilities.
Location of all solid waste disposal facilities, including recycling, and screening.
Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
Revised narrative, as necessary
All existing significant vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.
Exterior lighting showing area of illumination and indicating the type and height of fixture to be used.

- D. Additional Information. The Planning Commission, prior to granting approval of a final site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, traffic study, soil tests and other pertinent information.

#### **SECTION 12.04 APPLICATION AND REVIEW**

- A. Required site plans, application form, escrow fees (if applicable), and an application fee shall be submitted to the Zoning Administrator by the applicant or his agent, at least fifteen (15) days prior to the next regular Planning Commission meeting. If submitted within this time (unless associated with a Special Land Use or PUD), the Zoning Administrator shall cause the submittal

to be placed on the agenda of the next regular Planning Commission meeting. Applications shall not be accepted unless all required materials and fees are submitted and are declared complete by the Zoning Administrator.

- B. The Planning Commission shall approve, deny, or approve subject to conditions, the site plan, in accordance with the provisions of this Chapter.
- C. Any conditions or modifications recommended by the Planning Commission shall be recorded in the minutes.
- D. Two (2) copies of the final approved site plan shall be signed and dated by the Zoning Administrator or designee and the applicant. The Village or Township shall keep one (1) of these approved copies on file, one (1) shall be returned to the applicant or his designated representative.
- E. Each development subject to site plan review shall be substantially under construction within one (1) year after the date of approval of the site plan, except as noted below.
  - 1. The Planning Commission may grant a single one (1) year extension of the time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the site plan.
  - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  - 3. If neither of the above provisions are fulfilled or the one (1) year extension has expired prior to construction, the site plan approval shall be null and void.
- F. Construction related to each development subject to site plan review, or approved phase of that development, shall be completed within three (3) years after the date of approval of the final site plan.
  - 1. The Planning Commission may grant a single one (1) year extension of the time period for the phase, provided the applicant requests, in writing, an extension prior to the required completion date. The Planning Commission may require a performance guarantee as part of the extension.
  - 2. The extension shall be approved only for the phase in question if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed to completion within the extension period.
  - 3. If neither of the above provisions are fulfilled or the one (1) year extension of site plan approval shall be null and void and any performance guarantees may be exercised to finalize required improvements.

#### **SECTION 12.05 CHANGES IN THE APPROVED SITE PLAN**

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to the site plan.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) meet the standards of the ordinance and the intent of the design and will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:

1. Change in the building size, up to five percent (5%) in total floor area.
  2. Movement of buildings or other structures by no more than ten (10) feet.
  3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  4. Changes in approved building materials to a comparable or higher quality.
  5. Relocation of an outdoor waste receptacle.
  6. Modification of up to ten percent (10%) of the total parking area provided the number of parking spaces are not reduced below that required by this Ordinance.
  7. Sign location or reduction in size or height.
  8. The addition of small accessory buildings of not more than two hundred (200) square feet in area.
  9. Changes in floor plans which do not alter the character of the use.
  10. Changes required or requested by a County, State, or Federal regulatory agency in order to conform to other laws or regulations.
- C. If the Zoning Administrator determines that a proposed minor change may have a major impact on the area involved, he may refer the plan to the Planning Commission and the plan shall be reviewed in the same manner as the original application.
- D. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.

#### **SECTION 12.06 REVIEW STANDARDS**

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the Planning Commission in making judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

A. **Site Development Standards**

1. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
2. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
3. Landscaping and screening shall comply with Section 13.01
4. Exterior lighting shall comply with Section 13.04.
5. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department under jurisdiction of the project.

6. Site plans shall conform to all applicable requirements of County, State, and Federal agencies. Approval may be conditioned on the applicant receiving necessary County, State, and Federal permits before a building permit or an occupancy permit is granted.
7. Appropriate fencing may be required by the Planning Commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.
8. Utility lines and wires shall be located underground, whenever possible.
9. The general purposes and spirit of this Ordinance and the Shelby Community Master Plan shall be maintained.

B. Pedestrian Standards

1. Sidewalks or pathways appropriate for pedestrians or non-motorized vehicles shall be required but may be deferred with an appropriate performance guarantee.
2. The arrangement of pedestrian connections throughout the development, to adjacent developments, and to existing or future roads shall be planned to provide a safe and efficient nonmotorized circulation system.

C. Access Management

1. Number of Driveways
  - a. In commercial, industrial, or multiple family developments, access to a parcel may be required to consist of either a single two-way driveway or a pair of one-way driveways wherein one (1) driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.
  - b. Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.
  - c. Where a parcel has frontage along two (2) streets, access shall be provided only along the street with the lower average daily traffic volume, unless the Planning Commission determines this would negatively affect traffic operations or surrounding land uses.
  - d. Where the property has continuous frontage of over three hundred (300) feet and the applicant can demonstrate, using the Institute of Transportation Engineers manual Trip Generation or another accepted reference, that a second access is warranted, the Planning Commission may allow an additional access point.
  - e. Where the property has continuous frontage of over six hundred (600) feet, a maximum of three (3) driveways may be allowed, with at least one (1) driveway being designed and signed for right-turns-in, right-turns-out only.
2. Shared Access, Frontage Roads, Parking Lot Connections and Rear Service Drives
  - a. Shared use of access between two (2) or more property owners may be required as part of the lot split or site plan review process. The use of driveways constructed along property lines, connecting parking lots and on-site construction of frontage roads and rear service drives (where frontage dimensions are less than three hundred (300) feet) at locations with sight distance problems shall be considered. In these cases, a shared access may be the only access design allowed.

- b. In cases where a site is adjacent to an existing parking lot of a compatible use, or rear service drive, a connection to the adjacent facility shall be required by the Planning Commission, where feasible.
  - c. In cases where a site is adjacent to undeveloped property, the site shall grant a cross access easement to future development. Prior to the issuance of a zoning permit, the applicant shall provide the Zoning Administrator with irrevocable, registered access easements to adjacent properties.
- 3. Directional Driveways, Divided Driveways and Deceleration Tapers
  - a. Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes may be required by the Planning Commission where they will reduce congestion and accident potential for vehicles accessing the proposed use or site.
  - b. Driveways shall be designed with a twenty-five (25) foot radii or a thirty (30) foot radii where daily semi-truck traffic is expected.
  - c. Commercial Driveways
    - (1) Minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent to the property or on the opposite side of the street may be set on a case-by-case basis, but in no instance shall be less than two hundred (200) feet.
    - (2) Minimum spacing between two (2) commercial driveways shall be not less than three hundred (300) feet along the parcel frontage. The minimum spacing is measured from centerline to centerline.
    - (3) To reduce left-turn conflicts, new commercial driveways shall be aligned with those across the roadway, where possible. If alignment is not possible, driveways shall be offset a minimum of two hundred fifty (250) feet from those on the opposite side of the roadway.
    - (4) These requirements may be reduced by the Planning Commission in cases where compliance is not possible.

D. Environmental and Natural Features Standards

- 1. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or buffer strips be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
- 2. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- 3. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Dispersing storm water management techniques throughout the site are preferred. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to

contain oil filters or traps to prevent contaminants from being directly discharged to the natural drainage system.

4. Stormwater drainage design shall recognize existing natural drainage patterns. Stormwater removal shall not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater on-site, as deemed necessary by the Community Engineer using sound engineering practices.

#### **SECTION 12.07 SITE PLAN APPROVALS**

- A. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
- B. Conditions imposed shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Zoning Act and this Ordinance.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners and occupants.
- D. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to the decision shall be kept and made a part of the minutes of the Planning Commission.
- E. The Zoning Administrator shall make periodic investigations of developments for which site plans have been approved. Failure to maintain or comply with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.
- F. Any site plan review approval may be voided by the Zoning Administrator or Planning Commission if it has been determined that a material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency. The voiding of an approved site plan shall be communicated in writing with reasons for revocation to the property owner. The Building Official shall also be notified to withhold permits until a new site plan is approved.
- G. No application which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one (1) year from the date of the last denial, unless permitted by the Zoning Administrator after a demonstration by the applicant of a substantial change of circumstances from the previous application.

#### **SECTION 12.08 PERFORMANCE GUARANTEES**

The Planning Commission may require a performance guarantee in accordance with Section 15.09 to ensure compliance with the approved site plan.

#### **SECTION 12.09 APPEAL**

If any person shall be aggrieved by the action of the Zoning Administrator or Planning Commission, appeal in writing to the Zoning Board of Appeals may be taken in accordance with the provisions of Section 14.07.

## **CHAPTER 13**

### **SITE DEVELOPMENT REQUIREMENTS**

#### **SECTION 13.01 LANDSCAPING, BUFFERING AND SCREENING**

- A. A landscape plan shall be submitted as part of any site plan review application referenced in Section 12.02(A). The landscape plan shall include, but not necessarily be limited to, the following items:
1. Identification of existing natural features, drainage areas, woodlots, free standing trees outside of a woodlot over twelve (12) inches in diameter, and vegetative cover areas to be preserved will be clearly delineated.
  2. Location, spacing, size and descriptions for each plant type proposed for use within the required landscape area.
  3. Identification of areas to be grass or other ground cover and method of installation.
  4. Typical straight cross-section including slope, height, and width of berms and swales, or height and type of construction of wall or fence, including footings.
  5. Construction details for features to be constructed to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
  6. Screening details for all loading and unloading areas and outside storage areas, including areas for the storage of trash. Areas which face or are visible from Residential Districts or public roads, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height.
- B. Landscaping Requirements: (amended February 25, 2013)
1. Landscaping requirements may be waived if the existing vegetation to be retained on site meets or exceeds the requirements of this Chapter.
  2. All existing live trees in excess of twelve (12) inches in diameter shall be preserved (as much as practical) outside the immediate building area of the site; however, existing trees of those species listed below as “Prohibited Species” in Section 13.01, F may be removed.
  3. All required front setbacks shall be landscaped with a minimum of one (1) canopy or shade tree and four (4) shrubs for each thirty (30) lineal feet (or major portion thereof) of frontage abutting the right-of-way. Access ways from public rights-of-way shall not be subtracted from the lineal dimension used to determine the minimum number of trees and shrubs required.
  4. All required side and rear setbacks shall be landscaped with a minimum of one (1) canopy, under story, or evergreen tree and three (3) shrubs for each forty (40) lineal feet (or major portion thereof) along property lines.
  5. Parking lots exceeding twenty (20) parking spaces shall provide the equivalent of one (1) landscape island or perimeter bump-out for every twenty (20) spaces of parking or part thereof. Landscape islands or bump-outs shall be at least one hundred and eighty (180) square feet in size, with a minimum width of three (3) feet. Landscape islands shall be landscaped with one (1) canopy or ornamental tree and two (2) shrubs for every sixty (60) square feet of landscaping island. Receded landscape islands are encouraged to manage storm water on site.

6. All formal landscaped areas must be irrigated and be installed with moisture detectors.
  7. Additional landscaping may be required adjacent to the front or side of buildings to break up long building expanses and walls without windows.
  8. If the Planning Commission finds that the existing conditions on the subject parcel are such that compliance with the landscaping requirements is not feasible, the Planning Commission, as appropriate, may approve an alternative landscaping plan provided that the general purposes and spirit of this Ordinance are met.
- C. Screening Requirements
1. Screening may be required on the subject parcel in the following situations, except as may be provided elsewhere in this Ordinance.
    - a. Around all trash dumpsters in all Districts.
    - b. Around designated outdoor storage areas in the C-1, C-2, C-3 and IND Districts.
    - c. Around any loading/unloading area.
  2. Screening may be required on the subject parcel even if the surrounding area or adjacent parcels are unimproved.
  3. When any developed parcel changes to a more intense land use, screening shall be provided in compliance with this Ordinance.
  4. If existing conditions on the subject parcel are such that a parcel cannot comply with the screening requirements, the Planning Commission, as appropriate, shall determine the character of the screen based on the following criteria:
    - a. Traffic access and circulation.
    - b. Building and parking lot coverage.
    - c. Outdoor sales, display, or manufacturing area.
    - d. Physical characteristics of the site and surrounding area such as topography, vegetation, etc.
    - e. Views and noise levels.
- D. Screening Fences or Walls: All required screens shall meet the following requirements:
1. A solid, sight-obscuring fence or wall six (6) feet high.
  2. Dumpsters, enclosed on all sides and not containing any openings other than a gate for access which shall be closed at all times when not in use.
  3. The fence or wall shall be constructed of masonry, treated wood, or other material approved by the Planning Commission if determined to be durable, weather resistant, rust proof, and easily maintained.
  4. All other applicable standards of this Section shall be met.
- E. The Planning Commission may require a landscaped buffer in conjunction with any approval of a site plan. When a buffer is required for a use in Nonresidential District between a Residential and a Nonresidential District, it shall be placed on the Nonresidential District side. The Planning Commission shall approve the location, size, shape, materials and other specifications for the buffer zone subject to the general requirements of this Section.

1. The required buffer may be comprised of berms, required plant material in Section 13.01, B above, additional plant material where required landscaping materials provide insufficient screening, walls, fences, or any combination thereof. The Planning Commission shall determine if the alternate materials will provide the same degree of screening and buffering than required by these standards.
2. Landscaping may be required to serve as windbreaks.
3. Unless otherwise stated in this Ordinance, minimum width of the buffer shall correspond to the setback requirements for parking areas as prescribed in the Section 13.02, but shall not be less than ten (10) feet.
4. All areas within the buffer which do not contain trees or planting beds shall be covered with grass or other living ground cover.
5. Detention/retention areas shall be permitted within a required buffer provided they do not hamper the screening intent of the buffer or jeopardize the survival of the plant materials.

F. Landscaping Standards

1. Landscaping shall be installed such that, when mature, it does not obscure traffic signs, fire hydrants, lighting, drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.
2. A raised, rolled, or sub-surface curb or curb stops shall protect all landscape islands and landscaped areas immediately adjacent to paved areas. There shall also be a means of protecting site trees against injury from mowing equipment.
3. Unless used as street trees, all landscaped areas shall be arranged to simulate a natural setting such as staggered rows or clusters.
4. Landscaping, including street trees, shall be designed to blend with adjacent parcels where a road, walkway or other connections are provided between parcels.
5. All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be removed and replaced within six (6) months.
6. Minimum plant sizes at time of installation shall be according to the chart below.

Plant Type	Minimum Size (DBH)
Deciduous Canopy Tree	1.5 in. caliper
Deciduous Ornamental Tree	1.5 in. caliper
Evergreen Tree	6 ft. height
Deciduous Shrub	18 in. height
Upright Evergreen Shrub	2 ft. height
Spreading Evergreen Shrub	18 to 24 in. spread

7. The overall landscape plan shall not contain more than twenty-five percent (25%) of any one (1) plant species.
8. Where a berm is provided for the purposes of screening and buffering, it shall have a maximum slope of one (1) foot of vertical rise to three (3) feet of horizontal distance (1:3) with a crest area at least four (4) feet wide.

9. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

<b>PROHIBITED SPECIES</b>	
<b>Common Name</b>	<b>Horticultural Name</b>
Box Elder	Acer Negundo
Ginkgo	Ginkgo Biloba (female only)
Honey Locust	Gleditsia Triacanthos (with thorns)
Mulberry	Morus Species
Poplars	Populus Species
Black Locust	Robinia Species
Willows	Salix Species
American Elm	Ulmus Americana
Siberian Elm	Ulmus Pumila
Slippery Elm; Red Elm	Ulmus Rubra
Chinese Elm	Ulmus Parvifolia
Russian Olive	Elaeagnus-angustifolia

- G. The Planning Commission may require a performance guarantee in accordance with the requirements of Section 15.09 of sufficient amount to ensure the installation of all required landscaping.

### **SECTION 13.02 PARKING REQUIREMENTS**

#### **A. Parking - General**

1. Unless otherwise permitted in this Ordinance, off-street parking shall not be located within the required front yard.
2. The minimum number of parking spaces provided shall conform to the requirements of the uses as enumerated in the Zoning Districts of this Ordinance.
3. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this Ordinance.
4. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.
5. The Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:
  - a. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Ordinance for parking area design and other site development requirements.

- b. Alterations to the deferred parking area may be initiated by the owner or required by the Zoning Administrator.
- c. All or a portion of any deferred parking shall be constructed if required by the Zoning Administrator upon a finding that the additional parking is needed.

**B. Maximum Parking Requirement**

- 1. To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no parking lot shall have parking spaces totaling more than an amount equal to ten percent (10%) greater than the minimum parking space requirements, as determined by the Parking Requirements as noted in each Zoning District.
- 2. The Planning Commission, upon application, may grant additional spaces beyond those permitted in subparagraph a, above. In granting additional spaces the Planning Commission shall determine that the parking area otherwise permitted will be inadequate to accommodate the minimum parking needs of the particular use and that the additional parking will be required to avoid overcrowding of the parking area. The actual number of permitted spaces shall be based on professional documented evidence of use and demand provided by the applicant. The Planning Commission may consider this request as part of any required Site Plan Review.

**C. Parking – Residential Districts**

- 1. Residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. The parking spaces shall be constructed with an asphalt or portland cement binder, graveled, or compacted earth so as to provide a durable and dustless surface, and shall occupy no greater than thirty-three (33%) percent of the required front yard. All parking shall take place in these areas.
- 2. Overnight parking of semi-truck tractors and trailers, and commercial vehicles exceeding one and one-half (1½) tons shall be prohibited in any Residential District, except as may be permitted for a home-based business.
- 3. Residential parking areas for boats, trailers, motor vehicles, and recreation equipment shall not be located in any required front yard. This section shall not prohibit direct access drive parking of automobiles on paved, established driveways

**D. Parking – Nonresidential Districts**

- 1. Except for in the C-1 District, off-street parking shall be located on the same lot as the use is intended to serve. Fifty percent (50%) of the C-1 parking requirements may be shared, on-street or community parking.
- 2. Two (2) or more buildings or uses on separate lots may collectively provide the required off-street parking provided a joint recorded agreement is provided and registered with the Oceana County Register of Deeds and continually maintained.
- 3. Shared Parking Area
  - a. The Zoning Administrator may approve a shared parking arrangement for two (2) or more uses to utilize the same off-street parking facility where the operating hours of the uses do not significantly overlap.

- b. Required parking shall be calculated from the use that requires the greatest number of spaces.
- c. Should any use involved in the shared parking arrangement change to another use, the Zoning Administrator may revoke this approval and require separate parking facilities as required by this Ordinance.

E. Off-Street Parking Lot Construction and Design Requirements

- 1. Wherever the parking requirements of each Zoning District require the building of an off-street parking facility, it shall be laid out, constructed and maintained in accordance with the standards and regulations of this subsection.
- 2. Permits
  - a. No parking lot shall be constructed unless and until the Zoning Administrator issues a zoning permit or final site plan approval has been granted.
  - b. Application for a permit shall be submitted in a form provided by the Zoning Administrator and shall be accompanied with two (2) sets of plans for the development and construction of the parking lot showing compliance with the provisions of this Chapter.
  - c. No final occupancy permit shall be issued for a use for which the parking lot is intended until the parking lot has been completed, or a performance guarantee is in place for its completion.
- 3. Parking spaces and maneuvering lanes shall comply with the parking space requirements of the Parking Table.

<b>PARKING TABLE</b>				
<b>Parking Pattern (Degrees)</b>	<b>Parking Space (ft)</b>		<b>Aisle Lane Width (ft)</b>	
	<b>Width</b>	<b>Depth</b>	<b>One Way**</b>	<b>Two Way</b>
0 (parallel)	9	22	12	20
.1 to 29	9	18	15	NP
30 to 53	9	18	15	NP
54 to 74	9	18	15	NP
75 to 89	9	18	15	NP
90	9	18	15	24
**Where one-way drives for access abut buildings, the minimum width shall be twenty (20) feet. NP = Not Permitted				

- 4. All spaces shall be provided adequate access by means of maneuvering aisles. Backing directly onto a road shall be prohibited.
- 5. Parking Lot Access
  - a. Adequate ingress and egress to and from the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.

- b. Ingress and egress to and from a parking lot located in a Nonresidential District shall not be across land zoned in a Residential District or land used for residential purposes.
  - c. Except as may otherwise be required by this Chapter, each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty (20) feet from any adjacent property located in a Residential District.
  - d. Parking areas and access points shall comply with the access management standards of Section 12.06(C).
- 6. Construction Requirements
  - a. The entire parking area, including parking spaces and maneuvering lanes, shall be provided with asphalt or concrete surfacing in accordance with approved specifications.
  - b. Surfacing of the parking area shall be completed prior to occupancy unless seasonal restrictions apply in which case a performance guarantee which ensures that paving occurs by a specified time shall be provided.
  - c. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
  - d. All parking spaces shall be striped with paint or other approved material, at least four (4) inches in width. The striping shall be maintained and clearly visible.
  - e. Curbing or bumper blocks shall be provided along the perimeter of all paved and landscaped areas sufficient to keep vehicles from encroaching on property lines or sidewalks. Bumper blocks shall be provided at least four (4) feet from the edge of a property line or sidewalk. Bumper blocks shall be secured to prevent their movement. Where parking spaces terminate at a curb parallel to a sidewalk, bumper blocks shall be utilized to prevent vehicle overhang on the sidewalk.
- 7. Snow Storage
  - a. For parking lots having more than one hundred (100) spaces, where the Planning Commission determines that snow removal and storage may pose a problem to traffic circulation or reduce the amount of required parking, the site plan shall designate snow storage areas.
  - b. Storage areas may be provided only within a side or rear yard, and shall not be permitted to hinder the vision of drivers or pedestrians within or outside the parking area.
  - c. The snow storage area shall be equal to at least ten percent (10%) of the size of the planned parking lot. The area used for calculation of snow storage shall not include deferred parking areas, until such time as the deferred parking area is converted to parking.
  - d. Snow shall be removed as necessary to maintain the number of required parking spaces.
- F. Change of use of an existing structure: When a commercial, industrial or office building has a change of use the new use shall comply with the following:

1. The previously approved site plan, should one exist.
  2. All maintenance-related standards of this Ordinance.
  3. Screening and landscaping requirements of this Ordinance.
- G. Off-Street Parking Requirements
1. Parking space requirements for specific uses are found in the respective Zoning Districts.
  2. Units of Measure
    - a. When units or measurements determining the number of required parking or loading spaces result in the requirement of a fractional space, any fraction up to and including one-half ( $\frac{1}{2}$ ) shall be disregarded, and fractions over one-half ( $\frac{1}{2}$ ) shall require one (1) parking space.
    - b. Gross floor area will be used to compute the number of parking spaces required, unless otherwise noted. When usable floor area is used to calculate parking requirements, eighty-five percent (85%) of the gross floor area shall be used if more precise calculations are unavailable.
  3. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use that is similar in type. If there is no requirement that is reasonably applicable to the use, the Zoning Administrator shall determine the number of parking spaces that must be provided.
- H. Stacking Spaces
1. Certain uses are greatly reliant on vehicle access and possess characteristics that create the need for additional area devoted to stacking of vehicles. This subsection addresses these individual uses and outlines requirements for stacking spaces.
  2. Each stacking space shall be shown on a site plan.
  3. Each stacking space shall have a minimum dimension shown of twenty-two (22) feet in length by nine (9) feet in width. The lane containing the stacking spaces shall be separate and distinct from other access drives and maneuvering lanes for parking spaces.
  4. The location of stacking spaces shall be placed to avoid undue interference with on-site parking and to prevent unnecessary hazards to pedestrians.
  5. Regardless of the number of stacking spaces required or provided, in no instance shall the operator permit vehicles to stack up into any adjacent public or private road.

### **SECTION 13.03    LOADING REQUIREMENTS**

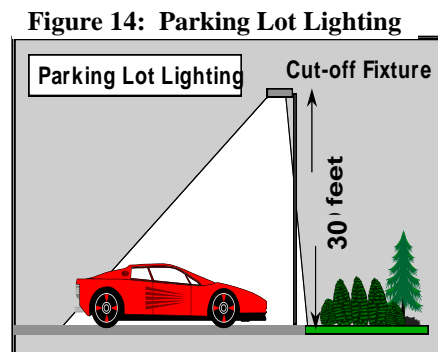
- A. Adequate space for standing, loading and unloading, that avoids undue interference with public use of dedicated rights-of-way, shall be provided and maintained on the same premises with every building, structure or part thereof involving the receipt or distribution of vehicles or materials or merchandise.
- B. Loading, unloading or parking of delivery vehicles and trailers in a Nonresidential District shall take place only in approved areas. Under no circumstances shall a delivery vehicle or trailer be allowed to park in a designated loading/unloading zone for longer than forty-eight (48) hours.

- C. At least one (1) loading space per commercial or service establishment shall be provided in the C-2 and C-3 Districts in addition to any required off-street parking area. Unloading aisle, separate from parking areas may be provided in the required front yard.
- D. All loading spaces in the Industrial District shall be at least ten (10) by fifty (50) feet, or other dimensions totaling at least five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or cement binder. Spaces shall be provided as follows:

Gross Floor Area (sq. ft.)	Loading and Unloading Spaces Required
0--1,400	None
1,401--20,000	1 space
20,001--100,000	1 space <u>plus</u> 1 for each 20,000 sq. ft. UFA over 20,001 sq. ft. UFA
100,001 and over	5 spaces <u>plus</u> 1 for each 40,000 sq. ft. UFA over 100,001 sq. ft. UFA

### SECTION 13.04 EXTERIOR LIGHTING

- A. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally, except for private lighting for single and two family dwellings.
- B. All outdoor lighting shall be directed away from, and if necessary, shall be shielded to prevent the shedding of light onto adjacent properties or roadways.
- C. Light poles used to illuminate parking lots or storage areas shall be limited to thirty (30) feet in height.
- D. Lights used for canopies for the uses as vehicle service stations, drive-in establishments and other similar uses shall be completely recessed in the canopy structure and shall not extend lower than the underside surface of the canopy.
- E. Lighting of parking areas, buildings, or structures shall be minimized to reduce light pollution and preserve the rural character of the Shelby Community.



### SECTION 13.05 SIGNS

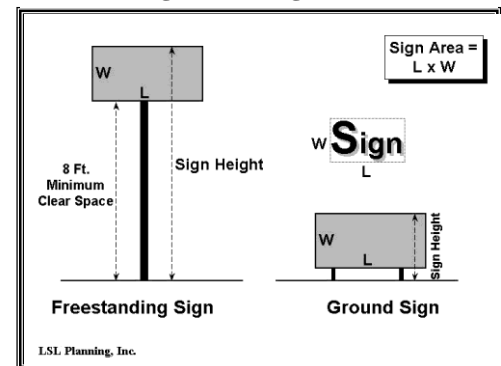
- A. Signs – Description and Purpose: The sign provisions of this Ordinance are intended to regulate the size, number, location, and manner of display of signs in the Community, consistent with the following purposes:
1. To protect the safety and welfare of residents; to conserve and enhance the character of the Community; and to promote the economic viability of commercial and other areas by minimizing visual clutter.
  2. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision or are distracting or confusing.

3. To promote uniformity in the size, number, and placement of signs within zoning districts.
  4. To promote the identification of establishments and premises in the Community.
- B. The sign types allowed in each Zoning District, as well as height, area and setback requirements, are listed in the Chapter for each Zoning District.
- C. The following signs are expressly prohibited:
1. A sign resembling the flashing lights customarily used in traffic signals, or police, fire, ambulance, or rescue vehicle or signs which imitate official traffic directional signs or devices.
  2. Signs with flashing or moving illumination.
  3. A sign using the words, "Stop", "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse a vehicle driver.
  4. Signs on parked vehicles where the sign is the primary use of the vehicle.
  5. Signs affixed to trees, shrubs or similar natural features.
  6. Signs affixed to fences or utility poles or structural elements not capable to support the signs.
  7. Roof signs.
  8. Signs in the public right-of-way.
  9. Any sign which obstructs the ingress or egress from a required door, window, or other required exit.
  10. Banners used as permanent signs.
  11. Temporary signs and devices including inflatable devices, pennants, pinwheels, searchlights or other devices with similar characteristics, except when used temporarily for periods not to exceed fifteen (15) days to announce an event. (amended July 2007)
- D. The following signs shall be exempt from the provisions of this Ordinance:
1. Governmental signs.
  2. Signs for essential services.
  3. Historical markers.
  4. Memorial signs or tablets.
  5. Signs with an address and/or name of the owner or occupant, of not more than two (2) square feet in area, attached to a mailbox, light fixture, or exterior wall.
  6. Directional signs of up to four (4) square feet provided only one (1) is permitted per driveway.
- E. Measurement of Signs
1. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo and any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used

to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

2. The area of a free-standing or ground sign that has two (2) or more faces shall be measured by including the area of all sign faces, except that if two (2) sign faces are placed back to back and are of equal size, the area of the two (2) back to back faces shall be counted as one (1) face. If the two (2) back to back faces are of unequal size, the larger of the two (2) sign faces shall be counted as one (1) sign face.
3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

**Figure 15: Sign Area**



#### F. Sign Application And Permits

1. A zoning permit shall be required for the erection, use, construction or alteration of all signs, except for those exempted by the terms of this Chapter. For purposes of this Section, alteration of a sign shall mean any substantial change therein, but shall not include normal maintenance or repair thereof.
2. An application for a sign permit shall be made to the Zoning Administrator, and shall include submission of a fee as may be required by resolution or other action by the Legislative Body. The application shall include the following:
  - a. Name, address, and telephone number of the applicant and the person, firm, or corporation erecting the sign.
  - b. Address or permanent parcel number of the property where the sign will be located.
  - c. A sketch showing the location of the building, structure, or parcel of land upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures, together with the depth of setback from lot lines.
  - d. A scaled print or drawings of the plans and specifications for the sign (area, height, lighting, etc.) and information on the method of construction and attachment to structures or the ground.
  - e. Any required electrical permit.
  - f. Identification of the zoning district in which the sign is to be located, together with any other information which the Zoning Administrator may require in order to determine compliance with this Ordinance.
3. All signs requiring electrical service shall be reviewed for compliance with the electrical code applicable in the Community.
4. The Zoning Administrator shall issue a sign permit if all provisions of this Chapter and other provisions of this Ordinance and other applicable ordinances are satisfied. A sign authorized by the permit shall be installed or shall be under construction within six (6)

months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon the filing of a new application and payment of the required fee.

G. Sign Regulations Applicable to All Districts

1. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any public lands in the Shelby Community except in accordance with the provisions of this Ordinance.
2. Except for political signs and billboards, signs shall pertain exclusively to the business carried on within the building or premises.
3. All signs shall be stationary and shall pertain only to the business or activity conducted on the premises, except for political signs and community special event signs.
4. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
5. Except for governmental signs, no sign shall be placed in, or extend into, any public street right-of-way.
6. One (1) construction sign per site is permitted, subject to the following restrictions:
  - a. Construction signs shall not be larger than thirty two (32) square feet and shall not exceed twelve (12) feet in height.
  - b. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
  - c. Construction signs shall be removed immediately upon issuance of any occupancy permit for the building or structure which is the subject of the construction sign.

H. Nonconforming Signs

1. Every permanent sign, legally established sign which does not conform to the height, size, area, or location requirements of this Chapter is deemed to be nonconforming.
2. Nonconforming signs may not be expanded, enlarged, or extended, but they may be maintained and repaired so as to continue their useful life.
3. A nonconforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign.

## **CHAPTER 14**

### **BOARD OF APPEALS**

#### **SECTION 14.01 AUTHORIZATION**

In order that the objectives of the Ordinance may be more fully and equitably achieved, that there shall be provided a means of competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public be secured, and that justice be done, there is hereby established a Board of Appeals.

#### **SECTION 14.02 MEMBERSHIP - TERMS OF OFFICE**

- A. The Board of Appeals of the Village of Shelby shall consist of seven (7) members appointed by the Legislative Body. The Board of Appeals of Shelby Township shall consist of three (3) members appointed by the Legislative Body.
  - 1. The first member of the Board of Appeals shall be a member of the Planning Commission; the second member may be a member of the Legislative Body, but shall not serve as chairperson of the Board of Appeals; the additional members shall be selected from the electors residing in the Community.
  - 2. The additional members shall not be elected officers or employees of the Legislative Body. The additional members shall be appointed for three (3) year terms; the Planning Commission and Legislative Body representatives, who shall not be the same member, shall only serve while holding membership on those respective bodies.
- B. The Legislative Body may appoint up to two (2) alternate members for the same terms as the regular members.
  - 1. An alternate may be called to serve as a regular member in the absence of a regular member if the regular member is absent from or will be unable to attend one (1) or more meetings.
  - 2. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.
  - 3. The alternate member shall serve in the case until a final decision is made.
  - 4. The alternate member shall have the same voting rights as a regular member when called.

#### **SECTION 14.03 DUTIES AND POWERS**

- A. Appeals: The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Community in the administration of this Ordinance.
- B. Interpretation: The Board of Appeals shall have the power to:
  - 1. Hear and decide upon requests for the interpretation of the provisions of this Ordinance; and
  - 2. Determine the precise location of boundary lines between zoning districts upon appeal from a decision by the Zoning Administrator.

- C. Variances: The Board of Appeals shall have the power to authorize specific variances from the requirements of this Ordinance.
- D. The Board of Appeals shall not have the authority to approve any sign type which is not permitted by this Ordinance.

#### **SECTION 14.04 MEETINGS**

Meetings shall be open to the public, and shall be held at the call of the Chairman and at such other times as the Board of Appeals shall specify in its rules of procedure.

#### **SECTION 14.05 APPLICATIONS AND HEARINGS**

- A. An application to the Board of Appeals shall consist of a completed application form, provided by the Community, a fee as established by the Legislative Body, which shall be paid to the Clerk at the time of filing, and a scaled drawing with sufficient detail to indicate the nature and necessity of the request. The Board of Appeals may request additional detail on the drawing or other information which they deem necessary to make a decision on the application.
- B. Upon receipt of a complete application the Secretary shall cause notices stating the time, place and subject of the hearing. The public hearing shall be advertised in a newspaper of general circulation not less than fifteen (15) days prior to the hearing. Additionally, a written notice shall be provided personally or by first class mail addressed to the parties submitting the application, and those persons residing within three hundred (300) feet of the property which is the subject of the application.
  - 1. All notices shall be sent to the addresses listed in the last assessment roll.
  - 2. The written notices shall be sent at least ten (10) days prior to the date of the scheduled hearing.
  - 3. The Board may recess the hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required.

#### **SECTION 14.06 DECISIONS**

- A. The concurring vote of a majority of the total membership stated in Section 14.02, A of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator; to decide in favor of any application on any matter upon which the Board is required to pass under this Ordinance; to effect any variance in this Ordinance, except for use variances, which require a 2/3 majority vote.
- B. The Board of Appeals shall return a decision upon each case within a reasonable time after the scheduled hearing has been held.
- C. Any decision of the Board shall not become final until minutes of the meeting at which final action on the request was taken are officially approved and adopted by the Board of Appeals, unless the Board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and shall so certify on the record.
- D. The decision of the Board of Appeals shall be final; however, any person having an interest affected by any such decision shall have the right of appeal to the Circuit Court on questions of

law and fact. An appeal shall be filed within 30 days after the Board of Appeals certifies its decision in writing or approves the minutes of its decision.

- E. Each decision entered under the provisions of this Chapter shall become null and void unless the construction or other action authorized by the decision has been started within one (1) year after the decision was made and is being carried forward to completion or occupancy of land, premises, or buildings.
- F. No application which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first ordered by the Board.

#### **SECTION 14.07 APPEALS**

- A. Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the Community. Applications for appeals shall be filed within twenty one (21) days after the date of the decision which is the basis of the appeal. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after the notice of the appeal shall have been filed with him that, for reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or, on application, by the Circuit Court when due cause can be shown.
- C. The Board of Appeals shall base its decision upon the record submitted to the person or body responsible for making the decision which is being appealed. No additional information or evidence shall be submitted by the appellant that was not otherwise available to the person or body making the decision from which the appeal was taken.

#### **SECTION 14.08 REVIEW STANDARDS FOR VARIANCES**

- A. Non-use Variance: A non-use variance may be allowed by the 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. That 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 on the effective date of this Chapter; or
    - b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
    - c. By reason of 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; or

- d. Any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary.
  2. That 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. That 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 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. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.
- B. Use Variances: A use variance may be allowed by the Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:
1. That the plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.
  2. That the immediate unnecessary hardship causing the need for the variance request was not created by any person presently having an interest in the property.
  3. That the proposed use would not alter the essential character of the area and will not materially impair the purposes of this Ordinance or the public interest.
  4. That the alleged hardship is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
  5. That the requested variance is the minimum action required to eliminate the hardship.
  6. The extent to which the Ordinance protects users or neighbors from threats to health, safety and welfare shall be considered. A use that seriously threatens the health of future residents or neighbors is not a beneficial or allowable use.
- C. The following data shall accompany all applications for a use variance:
1. A site plan must be submitted which meets the requirements of this Ordinance.
  2. Application form and any associated fees.
- D. Prior to Board of Appeals decision on a request for a use variance, the Board of Appeals may request that the Planning Commission consider the request and that the Commission forward a report regarding the proposals impact on the intent of the Master Plan to the Board of Appeals.

## **CHAPTER 15**

### **ADMINISTRATION AND ENFORCEMENT**

#### **SECTION 15.01 REPEAL OF PRIOR ORDINANCE**

The Zoning Ordinance previously adopted by Shelby Township on June 7, 1982, and the Village of Shelby on April 24, 1972, and all amendments thereto for each Ordinance, are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

#### **SECTION 15.02 INTERPRETATION**

- A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare.
- B. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the erection or use of land and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any other rules, regulations, permits, or easements, then the provisions of this Ordinance shall govern.
- C. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

#### **SECTION 15.03 ZONING ORDINANCE AMENDMENTS, INITIATION**

- A. All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least thirty (30) days prior to the first consideration by the Planning Commission.
- B. Requests for amendments to the Zoning Ordinance may be initiated in writing by the owner of the property requested for rezoning, or his/her authorized representative. Requests may also be made by the Planning Commission or the Legislative Body through official action taken at a public meeting which has been properly noticed as required by law. A public hearing shall be noticed not less than fifteen (15) days prior to the meeting and mailing of notice shall be sent to all property owners and occupants within 300 feet of the parcel to be developed, regardless of whether the noticed property or occupants are located in the Community. The notice shall include:
  - 1. The nature of the request.

2. The property(s) that are the subject of the request including a listing of all existing street addresses within property(s). If there are no addresses other means of identification may be used.
  3. Location and time of the hearing.
  4. Where and when written comments may be received.
- C. In the case of an amendment requested by a property owner or his/her authorized representative, the request shall include the following:
1. Completion of a Zoning Amendment Application as provided by the Zoning Administrator. An application shall include:
    - a. The name and address of the person making the request and all persons having a legal or equitable interest in any land which is requested to be rezoned.
    - b. Property description.
    - c. In the case of a text amendment, the specific section to be amended and the proposed text change.
    - d. If a change in the zoning map is requested, the common address, legal description of the area requested for change, and present and proposed district classifications shall be provided. The applicant shall also indicate by a scaled map, the location of the property requested for rezoning.
    - e. The nature of the amendment shall be fully described in writing.
    - f. Payment of all fees as required by the Township or the Village.
  2. If, in the opinion of the Zoning Administrator, Planning Commission, or Legislative Body, the information submitted does not provide a clear delineation of the specific area to be rezoned, the Zoning Administrator, Planning Commission, or Legislative Body may require the applicant to submit a boundary survey of the property in question. The survey shall include a written legal description and drawing of the area to be rezoned. The boundary survey, including legal description and map, shall be completed by a Land Surveyor licensed by the State of Michigan.

#### **SECTION 15.04 AMENDMENT PROCEDURE**

- A. After submission of the application and fee, amendments to this Ordinance shall be processed as provided in the Zoning Act.
- B. The following guidelines shall be used by the Planning Commission, and may be used by the Legislative Body in consideration of amendments to the Zoning Ordinance:
1. Text Amendment:
    - a. The proposed text amendment would clarify the intent of the Ordinance.
    - b. The proposed text amendment would correct an error in the Ordinance.
    - c. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
    - d. The proposed text amendment would promote compliance with changes in other Community, County, State, or Federal regulations.

- e. In the event the amendment will add a use to a District, that use shall be fully consistent with the character of the range of uses provided for within the District.
  - f. The amendment shall not result create incompatible land uses within a Zoning District, or between adjacent Districts.
  - g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
  - h. As applicable, the proposed change shall be consistent with the Community's ability to provide adequate public facilities and services.
  - i. The proposed change shall be consistent with the Community's desire to protect the public health, safety, and welfare of the Community.
- C. Map Amendment (Rezoning): In making its recommendation to the Legislative Body, the Planning Commission shall consider the following criteria:
  - 1. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the Shelby Community Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.
  - 2. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed Zoning District shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
  - 3. Whether, if rezoned, the site is capable of the accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting.
  - 4. Other factors deemed appropriate by the Planning Commission.
- D. Consideration of Amendment by the Legislative Body: Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Zoning Act, the Legislative Body may modify the proposed amendment or adopt it as presented by the Planning Commission.

## **SECTION 15.05 ZONING AGREEMENTS**

- A. Intent
  - 1. The Legislative Bodies recognizes that there are certain instances where it would be in the best interest of the Shelby Community, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions and limitations could be proposed by an applicant as part of an application for a rezoning. Therefore, it is the intent of this Section to provide a process by which an applicant seeking a change in zoning boundaries may propose a Zoning Agreement, with conditions and commitments attached thereto, as part of the application for the requested rezoning. These provisions shall be in accordance with the provisions of the Zoning Act, as amended.
  - 2. In addition to the requirements of Section 15.04, C, an applicant requesting a change in zoning boundaries may propose a Zoning Agreement, as defined in this Section. The

required application and process shall be the same for rezoning requests except as modified by the requirements of this Section.

B. The following definitions shall apply to this Section:

1. Rezoning Offer – Conditions proposed by the applicant and approved by the Community processed as part of an approval under this Section. These conditions shall constitute requirements for and in connection with the development and/or use of the property approved with a Zoning Agreement.
2. Zoning Agreement – A written agreement offered by the applicant and approved and executed by the applicant and the Community and recorded with the Oceana County Register of Deeds, incorporating the Rezoning Offer along with any requirements necessary to implement the Rezoning Offer. When necessary, the Zoning Agreement shall also include and incorporate, by reference, a site plan that illustrates the implementation of the Rezoning Offer. This plan shall not replace the requirement for a site plan as outlined in Chapter 12 or other approval that may be required by this Ordinance.

C. Eligibility.

1. An applicant for rezoning may submit a proposed Zoning Agreement with an application for rezoning. This election shall be made at the time the rezoning is filed, or may be made at a later time during the rezoning process. Election to file a rezoning with a Zoning Agreement shall be pursuant to the Zoning Act, as amended, and this Section.
2. In order to be eligible for the proposal and review of a rezoning with a Zoning Agreement, an applicant must propose a rezoning of property and voluntarily offer certain conditions to be set forth in a Zoning Agreement, which are equally or more restrictive than the regulations that would otherwise apply under the proposed new Zoning District.

D. Zoning Agreement: The Zoning Agreement shall set forth the Rezoning Offer and shall include those terms necessary to implement the Agreement. In addition, the Zoning Agreement shall include the following acknowledgments and understandings that:

1. The Zoning Agreement and the Rezoning Offer were proposed voluntarily by the applicant, and that the Community relied upon the Agreement and may not grant the rezoning without the Rezoning Offer and terms spelled out in the Zoning Agreement.
2. The Zoning Agreement and its terms and conditions are authorized by all applicable State and Federal law and constitution, and that the Zoning Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the Community.
3. The property shall not be developed and/or used in manner that is not consistent with the Zoning Agreement.
4. The approval and the Zoning Agreement shall be binding upon of the property owner and the Community, and their respective heirs, successors, assigns, receivers or transferees.
5. If a rezoning with a Zoning Agreement becomes void in accordance with Section 15.04, J, and/or in accordance with the Zoning Act, no development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established or a new rezoning with a Zoning Agreement has been approved.

6. Each of the requirements and conditions in the Zoning Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact or other condition created by the uses, activities or conditions represented in the approved rezoning and Zoning Agreement, taking into consideration the changed zoning district classification and the specific use(s), activities, or conditions authorized.
7. No part of the Zoning Agreement shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new Zoning District.

E. Rezoning Offer

1. The Zoning Agreement shall specify the Rezoning Offer and any requirements necessary to implement it. However, the Rezoning Offer may not authorize uses or developments of greater intensity or density, and/or which are not permitted in the new Zoning District; nor may any variances from height, area, setback or similar dimensional requirements in the Zoning Ordinance of the Shelby Community be allowed unless a variance has been previously granted by the Board of Appeals pursuant to the requirements of Chapter 14.
2. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a Special Land Use shall be approved as required in Chapter 11 prior to establishment of or commencement of development of the use.
3. The Rezoning Offer shall bear a reasonable and rational relationship and/or benefit to the property in question.
4. The Rezoning Offer may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, and/or may impose more restrictive measures on the location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features.
5. The Rezoning Offer may also include conditions related to the development of the property that are consistent with the intent of this Section and applicable State, Federal and local regulations. These conditions may include, for example, extension of or improvements to infrastructure serving the site, site specific improvements intended to minimize the impact of the development on surrounding properties, or such other conditions as deemed important to the development by the applicant.
6. A Rezoning Offer that includes provisions for preservation of natural features and/or open space, facilities for drainage, facilities for traffic and access, and similar activities that take place on private land shall include a written understanding for permanent maintenance of such features or improvements by entities other than Shelby Community, unless a separate agreement for dedication of the property to the public has been executed. The Zoning Agreement shall also contain a provision for authorization and finance of maintenance by or on behalf of the Community, after notice, in the event that the property owner(s) fail(s) to timely perform necessary maintenance.

F. Procedure for Application, Review and Approval

1. An application for rezoning shall be the same as outlined in Section 15.03. In addition to the required materials listed in Section 15.05, D, a Zoning Agreement in a recordable format acceptable to the Community shall be submitted, along with any plans necessary to illustrate the Rezoning Offer.

2. The application may be amended during the process of consideration, provided that any amended or additional Rezoning Offers are entered voluntarily by the applicant.
3. The Zoning Agreement shall be reviewed by the Community attorney prior to the required Planning Commission public hearing. The Community attorney shall determine that the Zoning Agreement conforms to the requirements of this Section and the Zoning Act, as amended, and shall confirm that the Zoning Agreement is an a form acceptable for recording with the Oceana County Register of Deeds.

G. Standards of Review

1. Following the public hearing, and further deliberations as deemed necessary by the Planning Commission, the Planning Commission shall make a recommendation based upon the Review Considerations of Section 15.04, C. In addition, the Planning Commission shall consider whether the proposed Zoning Agreement and the Rezoning Offer:
  - a. Are consistent with the intent of this Section.
  - b. Bear a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
  - c. Are necessary to ensure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential impacts to adjacent properties;
  - d. Are necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed Zoning Agreement and Rezoning Offer.
  - e. Lead to a better development than would have been likely if the property had been rezoned without a Zoning Agreement, or if the property were left to develop under the existing zoning classification.
  - f. Are clearly in the public interest, as compared to the existing zoning and considering the site specific land use proposed by the applicant. In making this determination, the Planning Commission shall find that the benefit to the public as a result of approving the rezoning and Zoning Agreement clearly outweigh any reasonably foreseeable detriments.
2. The Planning Commission may recommend approval, approval with recommended changes (related to the Zoning Agreement), or denial of the rezoning and Zoning Agreement; provided however, that any conditions which add to or amend the Rezoning Offer are acceptable to the applicant.
3. Upon receipt of the Planning Commission's recommendations, the Legislative Body shall deliberate upon the rezoning and Zoning Agreement. The Legislative Body shall approve or deny the Zoning Agreement, provided that any conditions which add to or amend the Rezoning Offer are offered by the applicant.

H. Revisions by the Legislative Body

1. Should a Rezoning Offer be revised following the Planning Commission public hearing and recommendation, the Legislative Body shall be required to conduct its own public hearing, in accordance with the requirements of the Zoning Act.

2. Alternatively, should the Legislative Body determine that the revisions are of such substantial nature or effect that they are significantly different from the Zoning Agreement reviewed by the Planning Commission, the Legislative Body shall have the option to remand the application to the Planning Commission to hold a public hearing on the Zoning Agreement as revised and submit a report and recommendation to the Legislative Body.
3. If an applicant proposes a Zoning Agreement after the Planning Commission has held a public hearing on a rezoning request, the Legislative Body shall first remand the application to the Planning Commission, who shall hold a new public hearing on the rezoning and proposed alternative Zoning Agreement and submit a report and recommendation to the Legislative Bodies.

I. Approval

1. If the rezoning and Zoning Agreement are approved, the zoning classification of the rezoned property shall consist of the District to which the property has been rezoned, plus a reference to the Zoning Agreement. The Zoning Map shall specify the new District, plus a small letter “a” to indicate that the property is subject to a Zoning Agreement (e.g., “R-1a”). The Community Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
2. Upon rezoning, the use of the property in question shall conform to all of the requirements regulating use and development within the new Zoning District; however, the more restrictive requirements of the Zoning Agreement shall apply, and the Rezoning Offer shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
3. The approved Zoning Agreement shall be recorded with the Oceana County Register of Deeds.
4. Prior to development, a site plan shall be approved in accordance with Chapter 12.

J. Expiration

1. Unless extended by the Legislative Body for good cause, the rezoning and Zoning Agreement shall expire two (2) years after adoption of the rezoning and Zoning Agreement, unless approved development of the property pursuant to building and other required permits issued by the Community commences within the two (2) year period and proceeds diligently to completion.
2. In the event that approved development has not commenced within the aforementioned two (2) years, the Zoning Agreement shall be void and of no effect.
3. Should the Zoning Agreement become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the Community is taken to bring the property into compliance with the Zoning Agreement, the Community may withhold or, following notice to the owner and a public hearing, revoke permits and certificates (in addition to or in lieu of any other lawful action to achieve compliance).
4. If the property owner applies in writing for an extension of the Zoning Agreement at least fifty (50) days prior to the expiration date, the Legislative Body may, after recommendation by the Planning Commission, grant an extension of up to one (1) year. No further extensions may be granted.

5. If the rezoning and Zoning Agreement becomes void as outlined above, then the land shall revert back to its original zoning classification as set forth in the Zoning Act. The reversion shall be initiated by the Community with notice and hearing as required for rezonings by the Zoning Act and this Ordinance.
  6. Nothing in the Agreement, nor any statement or other provision shall prohibit the Community from rezoning all or any portion of the property that is part to the Agreement to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Zoning Act
- K. Continuation
1. Provided that all development and/or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized under the agreement may continue indefinitely, provided that all terms of the Rezoning Offer and the Zoning Agreement continue to be adhered to.
  2. Failure to comply with the Zoning Agreement at any time after approval may constitute a breach of agreement, and further use of the property may be subject to legal remedies available to the Community.
- L. Amendment
1. During the initial two (2) year period, or during any extension granted by the Community as permitted above, the Community shall not add to or alter the Rezoning Offer in the Zoning Agreement.
  2. The Zoning Agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement.

## **SECTION 15.06 REMEDIES AND ENFORCEMENT**

- 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 Shelby Township Municipal Civil Infraction Ordinance and 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 Township Board for Shelby Township and the Village Council for the Village of Shelby, or their duly authorized representative(s), is hereby charged with the duty of enforcing the Ordinance and the Legislative Bodies are hereby empowered, in the name of Shelby Township or

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 Legislative Body in the suit to abate the same.

- F. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

#### **SECTION 15.07 PUBLIC NUISANCE, PER SE**

Any building or structure which is erected, repaired, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

#### **SECTION 15.08 ADMINISTRATIVE AND ESCROW FEES**

- A. Any application shall be accompanied by a fee, in an amount to be established by the Village Council or Township Board by resolution. The application fee shall be for the purpose of payment for the administrative costs and services expended by the Community in the implementation of this Chapter and the processing of the application. No part of this fee shall be refundable.
- B. A separate deposit may be collected from the applicant, as determined by the Legislative Body, and used to reimburse another party retained by the Community to provide expert consultation and advice including but not limited to legal, planning, and engineering professionals regarding the application. The basis for the amount of the deposit must be based on a reasonable estimate to provide these services. Any unused portions of this fee shall be returned to the applicant after all costs have been received by the Village or Township. In addition to regularly established fees, the Legislative Body in its discretion may also require an applicant to submit to the Community an amount of money determined by the Community to be a reasonable estimate of the fees and costs which may incurred by the Community in reviewing and acting upon any such application or related matters. Such estimated fee and costs shall be submitted prior to any Community review of an application or request.
- C. Any monies paid or deposited by an applicant which are not used or spent by the Community shall be refunded to the applicant.

#### **SECTION 15.09 PERFORMANCE GUARANTEES**

- A. The Zoning Administrator, Planning Commission, Board of Appeals, and Legislative Body are empowered to require a performance guarantee in the form of a bond, cashier's check, cash, letter of credit or other suitable negotiable security, in an amount equal to the estimated cost of improvements associated with the project that is the subject of the guarantee.
- B. A performance guarantee shall be deposited with the Township or Village Clerk at the time of the issuance of the permit by the Community authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan. If the improvements are not completed, the security shall be forfeited, either in whole or in part.

- C. The Community shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator.
- D. In cases where the improvements indicated with the approved site plan have not been completed in accordance with the approval granted, the amount of the aforementioned performance guarantee may be used by the Community to complete the required improvements. The balance if any shall be returned to the depositor.

#### **SECTION 15.10 FEES**

- A. The Legislative Body shall, by resolution, establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during regular office hours at the Township and Village Hall. Such fees may be changed from time to time by resolution of the Legislative Body.
- B. The applicant shall pay all applicable fees upon the filing of any application, proposed site plan, or any other request or application under this Ordinance for which a fee is required.
- C. The Community shall not charge fees or assess costs to the applicant for the time expended by Community employees (except as authorized under appropriate provisions of the Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Community during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part.

#### **SECTION 15.11 ZONING PERMITS**

- A. No dwelling, building or structure subject to the provisions of this Ordinance shall be erected, altered, enlarged or moved upon any lot or premises until a zoning permit has been issued by the Zoning Administrator in conformity with the provisions of this Ordinance. The permit shall be nontransferable and shall be good for one (1) year with the right of renewal in the discretion of the Zoning Administrator upon proper application and must be granted before any work of excavation, construction, alteration, enlargement or movement is begun.
- B. All applications for a zoning permit shall be submitted to the Zoning Administrator and shall be accompanied by a site plan as set forth in Chapter 11 of this Ordinance.
- C. For each zoning permit issued a fee shall be charged as set forth in Section 15.10 of this Ordinance. No zoning permit shall be valid until the required fee has been paid. Zoning permits may be renewed for a second year at no cost when no significant changes of plans have occurred. When significant changes, if determined by the Zoning Administrator, have occurred, a new application for zoning permit and fee shall be required.
- D. Nothing in this Section of the Zoning Ordinance shall be construed as to prohibit the applicant or their agent from preparing their own plans and specifications, provided the same are clear and legible and adhere to the required information as set forth in this Ordinance.
- E. Permit Revocation
  - 1. The Zoning Administrator shall have the authority to revoke or otherwise cancel any zoning permit issued in cases of failure and/or neglect to comply with any of the

- provisions of the Ordinance, conditions of approval, or in the case of false statement or misrepresentation made by the applicant.
2. Written notice of the revocation or cancellation of the zoning permit shall be provided by first class mail or personal delivery by the Zoning Administrator to the applicant or holder of the permit as soon as practicable, but in no case more than five (5) days after the revoking or canceling of the permit.
  3. The applicant or holder of the zoning permit shall have the right of appeal to the Board of Appeals in accordance with the provisions of Section 14.07.
- F. Accessory buildings when erected at the same time as the main building on a lot and shown on the application thereof shall not require a separate zoning permit.

### **SECTION 15.12 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 proceeding contrary to the provisions of this Ordinance, the 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 shall continue to work in or about the structure, land or building, or use after having been served with a Stop Work Order, except such work as that person is directed to perform to remove a violation or correct an unsafe condition, shall be in violation of this Ordinance.

### **SECTION 15.13 PROPERTY SURVEYS**

If the Zoning Administrator in the performance of his duties under this Ordinance (or the Planning Commission, Board of Appeals, or Legislative Body pursuant to their zoning review and approval powers under this Ordinance) shall deem it necessary that a survey be done by a professional surveyor or engineer for property at issue (including a written drawing and stakes set on the property boundaries or corners) in order to insure that all requirements of this Ordinance will be met, the survey and related information may be required by the Community and shall be paid for and provided by the property owner or applicant and no building permit or other Community permit(s) shall be issued or approved until and unless the survey and related information has been provided to the Community.

### **SECTION 15.14 ZONING ADMINISTRATOR**

- A. Each Legislative Body shall appoint a Zoning Administrator. Each Legislative Body may also appoint a Deputy Zoning Administrator authorized to act during periods of absence of the Zoning Administrator, or assist the Zoning Administrator with his responsibilities, with the same powers as granted the Zoning Administrator.
- B. The Zoning Administrator and Deputy shall not be members of the Legislative Body, Planning Commission, or Board of Appeals.
- C. The Zoning Administrator and Deputy shall be appointed for a term and subject to such conditions and at a rate of compensation as the Legislative Body determines.

- D. The Legislative Body may instruct the Zoning Administrator in writing to initiate an enforcement action or other legal action as may be permitted by this Ordinance. The Zoning Administrator shall keep a record of every written complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint. These records shall be a matter of public record.
- E. Reports
1. The Zoning Administrator shall prepare and file an annual report to the Legislative Body on the operation of the Zoning Ordinance including recommendations as to the enactment of any changes, amendments, or supplements to the Zoning Ordinance.
  2. The Zoning Administrator shall issue to the respective legislative body a semiannual report on permits issued, variances issued, special use permits and complaint of violation and the action taken thereon.
- F. Duties and Responsibilities – The Zoning Administrator shall:
1. Administer the provisions of this Zoning Ordinance.
  2. Be authorized to review applications for permits as set forth in this Ordinance and to grant or deny these permits.
  3. Shall ensure that complete files are kept regarding all administrative matters associated with this Ordinance.
  4. Refer all matters that relate to the Legislative Body, Planning Commission, or Board of Appeals as set forth in this Ordinance.
  5. Be empowered to make inspections of buildings or premises in order to properly administer and enforce this Ordinance.
- G. Should the Zoning Administrator have a personal or financial interest in the use of land, or the construction of any dwelling, building or structure subject to the provisions of this Ordinance, the Deputy Zoning Administrator shall examine the plans, inspect the dwelling, building or structure and issue the necessary permits, approvals and certificates.

#### **SECTION 15.15 SEVERABILITY**

The Ordinance and various Chapters, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any Chapter, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

#### **SECTION 15.16 ENACTMENT**

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven (7) days following publication of a "Notice of Adoption" in a newspaper circulating within the Community. The effective date of this Zoning Ordinance for the Village of Shelby is \_\_\_\_, 2006. The effective date of this Zoning Ordinance for Shelby Township is \_\_\_\_, 2006.