



# Zoning and Subdivision Regulations

Village of Shelton, Nebraska

One Mile Extraterritorial Jurisdiction

**2018-2038**

Ordinance No.

Adopted November 8, 2018





TITLE: Village of Shelton Zoning and Subdivision Regulations

AUTHOR: South Central Economic Development District, Inc.

SUBJECT: Zoning and Subdivision Regulations for Shelton and its one (1) mile extra territorial jurisdiction

DATE: October 4, 2018

LOCAL PLANNING AGENCY: Shelton Planning Commission

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ABSTRACT: These zoning regulations are consistent with the Village of Shelton's adopted Comprehensive Plan—Cultivating the Shelton Advantage. Any amendments to this chapter, including but not limited to, rezoning and development approvals, shall be consistent with the adopted Comprehensive Plan, as it is amended, in effect at the time of the request for amendments. An amendment to the text of the zoning regulations is consistent, and in accordance with the Comprehensive Plan if it complies with the goals, objectives, and strategies, as well as any vision statement contained therein. Any amendment to the zoning code not consistent or in accordance with the Comprehensive Plan should result in a subsequent amendment to the Comprehensive Plan.

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# Article One: Title and Purpose

## 1.1 Title

This title of the Shelton Municipal Code, herein after “this Zoning Ordinance,” shall be known as the Village of Shelton Zoning Ordinance. The Zoning Administrator for the purposes of this Zoning Ordinance shall be the Utilities Superintendent.

## 1.2 Purpose

The purposes of this Village of Shelton Zoning Ordinance are to:

1.2.01 Serve the public health, safety, and general welfare of the Village and its jurisdiction.

1.2.02 Classify property in a manner that reflects its suitability for specific uses.

1.2.03 Provide for sound, attractive development within the Village and its jurisdiction.

1.2.04 Encourage compatibility of adjacent land uses.

1.2.05 To prevent excessive population densities and overcrowding.

1.2.06 Protect environmentally sensitive areas.

1.2.07 Further the objectives of Cultivating the Shelton Advantage Comprehensive Plan.

## 1.3 Application

No building, structure, or land, with the exception of agricultural related buildings, shall be constructed, reconstructed, moved, structurally altered, used, or occupied except as provided by this Zoning Ordinance.

## 1.4 Consistency with Comprehensive Plan

The Village of Shelton intends that this Zoning Ordinance and any amendments to it shall be consistent with the Village’s Comprehensive Plan. It is the Village’s intent to amend this Zoning Ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Plan. If this Zoning Ordinance is amended, such amendments shall be reflected in the Comprehensive Plan.

## 1.5 Relationship to Village Code

The use of buildings and land within the Village of Shelton shall be subject to all applicable provisions of the Village Code and other Ordinances, as well as this Zoning Ordinance, whether or not those other provisions of the Village Code are specifically cross-referenced in this Zoning Ordinance. Cross-reference to other provisions of the Village Code found in this Zoning Ordinance are provided for the convenience of the reader; lack of a cross-reference should not be construed as an indication that other provisions of the Village Code do not apply.

## 1.6 Conflicting Provisions

The Zoning Ordinance shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of the Zoning Ordinance conflicts with any other provision of the Zoning Ordinance, any other Ordinance of the Village of Shelton, or any applicable State or Federal law, the more restrictive provision shall apply.

**1.7 Relief from Other Provisions**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval or special permit.

**1.8 Repeal of Conflicting Ordinances**

All Ordinances or parts of Ordinances in conflict with this Zoning Ordinance, or inconsistent with the provisions of this Zoning Ordinance, are hereby repealed to the extent necessary to give this Zoning Ordinance full force and effect.

**1.9 Severability of Provisions**

If any chapter, section, clause, or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions.

**1.10 Planning Commission Recommendations**

Pursuant to §19-901 et. seq. Neb. Rev. Stat. 1943, it shall be the purpose of the Planning Commission, hereinafter the “Commission,” to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Village Council shall not hold its public hearings or take action until it has received the final report.

**1.11 District Regulations, Restrictions, Boundary Creation**

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the Village at least one time ten (10) days prior to such hearing.

**1.12 Jurisdiction**

The provision of this Zoning Ordinance shall apply within the corporate limits of the Village of Shelton, Nebraska, and within the territory beyond said corporate limits as prescribed under Nebraska Revised Statutes, as established on the map entitled “The Official Zoning Map of the Village of Shelton Nebraska,” and as may be amended by subsequent annexation.

**1.13 Protection Corridors**

In addition to the regulations of this Zoning Ordinance, all structures within any protection corridor of the Village, County, or the Nebraska Department of Transportation shall adhere to any permits, reviews, and established setbacks.

**1.14 Provisions of Ordinance Declared to be Minimum Requirements**

In their interpretation and application, the provisions of this Zoning Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, or general welfare. Whenever the provisions of this Zoning Ordinance require a lower height of building or lesser size of yards, courts or other open spaces, or require a lower height of building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other Ordinance, the provisions of this Zoning Ordinance shall govern. Wherever the provisions of any other Ordinance requires a greater width or size of yards, courts or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Zoning Ordinance, the provisions of such Ordinance shall govern.

**1.15 Zoning Affects Every Building and Use**

No building or land shall hereafter be reused and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use, or unless otherwise provided for in these regulations.

**1.16 Publication**

This Zoning Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, be filed with the Village Clerk of the Village of Shelton, Nebraska.

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## Article Two: Rules and Definitions

### 2.1 Purpose

Article Two shall be known as the Rules and Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of this Zoning Ordinance. The meaning and construction of words as set forth shall apply throughout this Zoning Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

### 2.2 Rules of General Construction of the Language

For the purposes of this Zoning Ordinance the following rules shall apply:

- 2.2.1 Words and numbers used singularly shall include the plural, the plural shall include the singular, unless the context clearly indicates otherwise. Words used in the present tense shall include the future tense.
- 2.2.2 Any conflict between the text and any illustration explaining the text, the text shall apply.
- 2.2.3 The word “persons” includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent, or any other representative.
- 2.2.4 The word “shall” is always mandatory. The word “may” is discretionary and not compulsory.
- 2.2.5 The words “use,” “used,” “occupy,” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged,” or “designed” to be used or occupied.
- 2.2.6 The word “and” indicates all connected items, conditions, provisions, or events shall apply. The word “or” indicates that one or more of the connected items, conditions, provisions, or events shall apply. “Either... or” indicates that the connected items or provisions shall apply singly but not in combination.
- 2.2.7 The word “Commission” shall refer to the Planning Commission of the Village of Shelton, Nebraska.
- 2.2.8 Undefined words or terms not herein defined shall have their usual and customary meaning as defined in a standard English dictionary or other applicable Village, State, or Federal regulation, unless the context clearly indicates another meaning was intended.
- 2.2.9 Computation of Time: Unless otherwise specifically provided, the time within which an act is to be completed shall be computed by excluding the first day and including the last day, unless it is Sunday or a Village holiday. All acts shall be completed within the time frame specified subject to extension periods provided herein.
- 2.2.10 Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the Village of Shelton, Nebraska.

## 2.3 Definitions

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. These definitions shall be used in the interpretation of this Zoning Ordinance.

### 2.3.1 A

1. **ABANDONED:** intent of abandonment shall be assumed once an owner has ceased to use a property for a period of twelve (12) months. Indications of cessation include, without limitation, failure to provide utilities, lack of occupancy, failure to invest any resources into the property, lack of routine maintenance performance, defaulting on required financial payments, and failure to pay appropriate taxes. This is distinguished from short-term interruptions such as periods of remodel, maintenance, or normally accepted periods of vacation or seasonal closure.
2. **ABUT OR ABUTTING:** to border on, being contiguous with or have property or district lines in common. This shall include properties separated by an alley.
3. **ACCESS OR ACCESS WAY:** the place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use as required by this Zoning Ordinance.
4. **ACCESSORY BUILDING:** any detached subordinate (in size and use) building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory buildings include, without limitation, farm buildings, garages, attached carports, and small storage sheds.
5. **ACCESSORY LIVING QUARTERS:** living quarters located within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises. Such quarters have no kitchen facilities and are not rented or otherwise used as a separate dwelling unit.
6. **ACCESSORY STRUCTURE:** a detached subordinate (in size and use) structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
7. **ACCESSORY USE:** a use incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
8. **ADJACENT:** near, close, or abutting. For example, a Commercial District across the street from a Residential District shall be considered as “adjacent.”
9. **ADULT ESTABLISHMENT:** any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to “specified sexual activities” or “specified anatomical areas,” including, with no limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motels, and adult body painting studios.
10. **AGRICULTURAL FARM OPERATION:** any tract of land over ten acres in area used for or devoted to the commercial production of farm products.

11. **AGRICULTURE:** planting, cultivating, harvesting, and storage of grains, hay, or plants commonly grown in the country. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept is ten acres or more in area, and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.
12. **ALLEY:** a dedicated public or private right-of-way, other than a street, which provides only a secondary means of access to abutting property, which is no less than twenty (20) feet in width. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
13. **ALTERATION:** as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height or the moving from one location or position to another, shall be considered an “alteration.”
14. **AMENDMENT:** a change in the wording, context, or substance of this Zoning Ordinance, an addition or deletion or a change in the district boundaries or classifications upon the official zoning map.
15. **ANIMAL HOSPITAL OR CLINIC:** an establishment where animals are admitted principally for examination, treatment, board, or care by a doctor of veterinary medicine. This does not include open kennels or runs.
16. **APARTMENT:** a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended, or designed for a place of residence of an individual, a single family or group of individuals living together as a single housekeeping unit. (See also Dwelling, Multiple.)
17. **APPLICANT:** the titleholder of record, his agent, or a person holding a notarized letter authorizing the person to represent the legal owner of the property.
18. **APPEARANCE:** the outward aspect visible to the public.
19. **APPROPRIATE:** fitting to the context of the site and the whole community.
20. **APPURTENANCES:** shall mean the visible, functional, objects accessory to and part of buildings.
21. **AREA:** a piece of land capable of being described with such detail that its location may be established and boundaries ascertained.
22. **ATTACHED:** having one or more walls in common with a principal building or connected to a principal building by an integral architectural element.
23. **ATTACHED PERMANENTLY:** attached to real estate in such a way as to require dismantling, cutting away, unbolting, from a permanent foundation or structural change in such structure in order to relocate it to another site.

### **2.3.2 B**

1. **BAR:** any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premise.
2. **BASEMENT:** a level of building below street level that has at least one-half (1/2) of its height, measuring from its floor to its ceiling, below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.
3. **BED AND BREAKFAST:** a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.
4. **BEDROOM:** a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
5. **BEST INTEREST OF THE COMMUNITY:** shall mean interests of the community at large and not interests of the immediate neighborhood.
6. **BLOCK:** a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, Village-County boundaries, or adjoining property lines which has been designated as such on a plat for the purposes of legal description of a property.
7. **BOARD OF ADJUSTMENT:** the board that has been created by the Village and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
8. **BOARDING OR LODGE HOUSE:** A building other than a hotel where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons, but not exceeding twenty (20) persons. Individual cooking facilities are not provided.
9. **BOND:** any form of security including a cash deposit, security bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Village Board which meets the intent of such security required by this Ordinance.
10. **BOUNDARY ADJUSTMENT:** the transfer of property by deed to a respective owner or owners of contiguous property for the purpose of adjusting a boundary line and not for the purpose of creating an additional lot or parcel.
11. **BREW PUB:** a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, a maximum of 10,000 gallons of beer per year is sold to diners on-site, and up to 5,000 barrels is to be sold to distributors for retail sale. The area, by definition, used for brewing, including bottling and kegging, shall not exceed twenty-five percent (25%) of the total floor area of the commercial space.
12. **BREWERY:** an industrial use that brews ales, beers, meads, and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined, annually).



13. **BUFFER:** strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (*See also* Screening.)
14. **BUFFER ZONE:** an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
15. **BUILDING:** any structure entirely separated from any other structure by space or by walls, having a roof, that was built and maintained for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. Trailers, with or without wheels, shall not be considered as buildings. The term “building” includes the term “structure.”
16. **BUILDING, AREA OF:** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
17. **BUILDING CODE:** the various codes of the Village that regulate construction and requires building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the Uniform Building Code, and other codes adopted by the Village that pertain to building codes.
18. **BUILDING HEIGHT:** the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building.
19. **BUILDING LINE:** a line parallel, or nearly parallel, to the street line at a specified distance from the street line which marks the minimum set back distance a building may be erected. In the case of a cul-de-sac the building line shall be measured around the curvature of the street line and shall be located at the required front yard setback or where the lot width meets the minimum lot width required in the district, whichever is greater.
20. **BUILDING PERMIT:** a document that must be issued by the Utilities Superintendent prior to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure regulated by this Zoning Ordinance or by the applicable building codes of the Village of Shelton. Issuance of a building permit follows review of plans by the Utilities Superintendent to determine that the proposed use of building or land complies with the provisions of this Zoning Ordinance.
21. **BUILDING SETBACK:** the minimum of distance as prescribed by this Zoning Ordinance between any property line and the closed point of the building line or face of any building or structure.

### **2.3.3 C**

1. **CAMPGROUND:** a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and which its primary purpose is recreational, having open areas that are natural in character.
2. **CAR WASH:** a building or structure or area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

3. CARPORT: a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.
4. CEMETERY: land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.
5. CHARITABLE ORGANIZATION OR CLUB: a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.
6. CHANGE OF USE: the replacement of an existing use by a new use.
7. CHILD CARE: the care as follows
  - a. To four (4) or more children under thirteen (13) at any time of families other than that of the provider
  - b. For on average of less than twelve (12) hours a day
  - c. For compensation, either direct or indirect
  - d. On a regular basis, and
  - e. By a person other than their parents/guardians
8. CHILD CARE CENTER: a facility licensed to provide child care for thirteen (13) or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
9. CHURCH: a permanently located building commonly used for religious worship fully enclosed with walls and having a roof and conforming to applicable legal requirements.
10. CLUB: an association of persons (whether incorporated or not), religious or otherwise, for a common purpose, but not including groups organized primarily to render a service or carried on as a business for profit.
11. CLUSTER DEVELOPMENT: a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.
12. CODE: The Village Code of the Village of Shelton.
13. COMMISSION: The Shelton Planning Commission.
14. COMMON AREA OR PROPERTY: a parcel or parcels of land, together with improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.
15. COMMON OPEN SPACE: an area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking, or loading areas. Areas of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

16. **COMMERCIAL CENTER:** Several mixed commercial functions housed in one or more buildings designed as an integrated unit and contained within one legal parcel of land.
17. **COMMUNITY CENTER:** a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
18. **COMPATIBILITY:** the degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.
19. **COMPATIBLE USES:** a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
20. **COMPREHENSIVE PLAN:** Cultivating the Shelton Advantage Comprehensive Plan of the Village of Shelton, Nebraska as adopted by the Village Board, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements of Neb. Rev. Stat. §19-924--929 (1943) (Reissue 1997), as the same may, from time-to-time, be amended.
21. **CONDITIONAL ACCESSORY USE:** an incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, and where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood, or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
22. **CONDITIONAL APPROVAL:** approval of a subdivision which requires the subdivide to take certain specified action in order to secure approval of the subdivision. The Resolution approving a subdivision shall specify the condition to be met and the time by which the condition is to be met.
23. **CONDITIONAL USE:** a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
24. **CONDITIONAL USE PERMIT:** a permit issued by the Commission and Village Board that authorizes the recipient to make conditional use of the property in accordance with the provisions of this Zoning Ordinance and any additional conditions placed upon, or required by, said permit.
25. **CONDOMINIUM:** as defined in the Neb. Rev. Stat. §76-824--894 (1943) (Reissued 1997), the Condominium Law, whereby four or more apartments are separately offered for sale. Shall mean a multiple dwelling building as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each having an undivided interest in the common real estate.

26. **CONFLICTING LAND USE:** the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limiting, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses, and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.
27. **CONSERVATION:** the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings, or natural resources.
28. **CONSERVATION AREA:** environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance, or character, except in overriding public interest, including but not limiting, wetlands, floodways, flood plains, drainage ways, river, or stream banks, and areas of significant biological productivity or uniqueness.
29. **CONSERVATION EASEMENT:** an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
30. **CONSTRUCTION:** on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting, and landscaping.
31. **CONVENIENCE STORE:** a one-story, retail store containing less than 10,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items. It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.
32. **COUNTY:** Buffalo County, Nebraska.
33. **COURT:** An open, unoccupied space, other than yard, bounded on three or more sides by exterior walls of a building, or by exterior walls of a building, and lot lines on which walls are allowable.
34. **COVERAGE:** the percentage of lot covered by buildings and structures.
35. **CROP PRODUCTION:** branch of agriculture that deals with growing crops for use as food and fiber.
36. **CUL-DE-SAC:** a short, public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

#### **2.3.4 D**

1. **DEDICATION:** the intentional appropriation of land by the owner to some public use.
2. **DENSITY:** the number of dwelling units per gross acre of land.
3. **DETACHED:** fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.

4. DEVELOPMENT: any manmade change to improved or unimproved real estate, including but limiting, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.
5. DEVELOPMENT REVIEW: the review, by the Village, of subdivision plats, site plans, rezoning requests, or permit review.
6. DISTRICT OR ZONE: sections of zoning area for which this Zoning Ordinance governing the use of land, building height and bulk, size of yards, and intensity of activity are uniform.
7. DOG: any canine specie over twelve (12) months of age; a dog younger than 12 months is a puppy.
8. DOMESTIC LIVESTOCK USE: Any activity involving the breeding, raising, caring for, housing, and principally the hobby/personal use of domestic animals and products derived from those animals by the occupant, owner, or leaser of the lot on which such use is located. Such animals may include, but need not be limited to, chickens, sheep, goats, alpacas, cattle, horses or swine, and other species not defined as household pets or regulated elsewhere in this Ordinance.
9. DOWNZONING: a change in zoning classification of land to a less intensive or more restrictive district such as from a commercial district to residential district or from a multiple family residential district to single family residential district.
10. DRIVE-IN FACILITY: an establishment where customers can be served without leaving the confinement of their vehicles.
11. DRIVEWAY: any vehicular access to an off-street parking or loading facility.
12. DUPLEX: shall mean the same as “Dwelling, Two (2) Family.”
13. DWELLING: any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
14. DWELLING, MANUFACTURED HOME: a factory-built structure which is to be used as a place for human habitation, which is not constructed with or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axels, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
15. DWELLING, MOBILE HOME: any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved essentially in a completely constructed condition and mounted on wheels, skids or roller, jacks, blocks, horses, skirting, or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camper, but the definition shall not apply to any vehicle lawfully operated upon fixed rail.
  - a. Permanently attached: attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or

- structural change in such mobile home in order to relocate it on another site in accordance to manufacturers' recommendations.
- b. Permanent Foundation: based on building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.
16. DWELLING, MODULAR: (is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home, it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Neb. Rev. Stat. §71-1555-1567 (1943) (Reissued 1997), in addition to any amendments thereto; those that do not meet the above criteria shall be considered a mobile home.
17. DWELLING, MULTI-FAMILY: a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
18. DWELLING, SEASONAL: a dwelling designed and used as a temporary residence and occupied less than six (6) months in a year.
19. DWELLING, SINGLE FAMILY: a building having accommodations for or occupied exclusively by one family which meet all of the following standards:
- a. The home shall have no less than five hundred (500) square feet of floor area, above grade, for single story construction, unless otherwise noted in this Zoning Ordinance.
  - b. The home shall have no less than eighteen (18) foot exterior width.
  - c. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
  - d. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
  - e. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, tin, steel, or rock.
  - f. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed.
  - g. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning districts.
  - h. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two (42) inches below the final ground level.
20. DWELLING, SINGLE FAMILY (ATTACHED): a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an un-pierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.

21. DWELLING, SINGLE FAMILY (DETACHED): a dwelling which is entirely surrounded by open space on the same lot and is detached from another single-family dwelling.
22. DWELLING, TWO (2) FAMILY: a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having a separate kitchen and toilet facilities for each family.
23. DWELLING UNIT: one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet, and sleeping facilities.

#### **2.3.5 E**

1. EASEMENT: a privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.
2. EFFECTIVE DATE: the date that this Zoning Ordinance shall have been adopted, amended, or the date land areas became subject to the regulations contained in this Zoning Ordinance as a result of such adoption or amendment.
3. ENCLOSED: a roofed or covered space fully surrounded by walls.
4. ENCROACHMENT: an advancement or intrusion beyond the lines or limits as designated and established by this Zoning Ordinance, and to infringe or trespass into or upon the possession or right of others without permission.
5. ENLARGEMENT: the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
6. EXTERIOR BUILDING COMPONENT: an essential and visible part of the exterior of a building.
7. EXTRATERRITORIAL JURISDICTION: the area beyond the corporate limits, in which the Village has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

#### **2.3.6 F**

1. FAÇADE: the exterior wall of a building exposed to public view from the building's exterior.
2. FACTORY: a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
3. FAMILY: a person living alone, or any of the following groups living together as a single, nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:
  - a. Any number of people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship.
  - b. Up to four unrelated persons and any related children.
  - c. A group care home.

The term “family” does not include occupancy of a residence by persons living in fraternities, sororities, clubs or transient, or permanent commercial residential facilities catering to the general public. The term “family” excludes nursing homes and convalescent homes.

4. FARMERS MARKET: an [outdoor] market at a fixed location open to the public, operated by a governmental agency, a non-profit corporation, or one (1) or more producers at which (a) 75% of the vendors sell Farm Products or value-added Farm Products, and (b) at least 75% of the vendors who regularly participate during the market's hours of operation are Producers, or family members, or employees of Producers.
5. FARM PRODUCTS: fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey, or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese, and other dairy products), and fish.
6. FENCE: an enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including vehicles, machinery, equipment, buildings, or hedges, shrubs, trees, or other natural growth.
7. FENCE, OPEN: a fence, including gate, which has, for each one foot (1') wide segment extending over the entire length and height of fence, fifty percent (50%) or more of the surface or more of the surface area in open spaces which affords direct views through the fence.
8. FENCE, SOLID: any fence which does not qualify as an open fence.
9. FLOOR AREA: whenever the term “floor area” is used in this Zoning Ordinance as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
10. FOWL: A gallinaceous bird kept chiefly for its eggs and flesh. A hen, turkey, duck, goose, or guineafowl.
11. FRONTAGE: that portion of a parcel of property which abuts a dedicated public street or highway.
12. FRONTAGE ROAD: minor streets parallel to and adjacent to arterial streets and highways, which reduce the number of access points to the arterial street or highway for the purpose of increased traffic safety.

#### **2.3.7 G**

1. GARAGE, PRIVATE: an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.
2. GARAGE, PUBLIC: any garage other than a private garage.
3. GOVERNING BODY: that body having jurisdiction in the zoning area.
4. GRADE: the horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.



- a. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be the grade.
  - b. For buildings having walls facing more than one street, the grade shall be the average of the grades of all walls facing each street.
  - c. For buildings having no walls facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be the grade.
  - d. Any wall approximately parallel to and not more than five feet (5') from a street line is considered as facing the street.
- 5. GROSS FLOOR AREA (gfa): the sum of the gross horizontal areas of the floor(s) of a building, including interior balconies and mezzanines, but excluding exterior balconies. All horizontal dimensions of each floor are measured from the faces of the exterior walls of each such floor.
- 6. GROUP DAY CARE CENTER: an establishment other than a public or parochial school, which provides day care, play groups, nursery schools, or education for five or more unrelated children.
- 7. GROUP CARE HOME: a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four-hour care for individuals in a residential setting.
- 8. GUEST ROOM: a room which is designed to be occupied by one or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

#### **2.3.8 H**

- 1. HABITABLE: state of a structure that allows for human occupation. Indications of habitability include, without limitation, heat in the winter months, no infestation of vermin, roaches, termites, or mold, and access to potable water.
- 2. HALFWAY HOUSE: a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.
- 3. HAZARDOUS WASTE: any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.
- 4. HEDGE: a plant or series of plants, shrubs, or other landscape material, so arranged as to form a physical barrier or enclosure.
- 5. HOME OCCUPATION: a business, profession, or trade conducted for gain or support entirely within a residential building subject to the following use limitations:
  - a. In all residential districts:
    - i. No commodities shall be displayed on the premises.
    - ii. No mechanical or electrical equipment shall be used other than that which is normally used for purely domestic or household purposes.

- iii. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
    - iv. No alteration of the principal residential building shall be made which changes the character thereof as a residence.
    - v. Employed individuals from outside the immediate family are limited to two (2).
    - vi. No manufacturing or processing of any store whatsoever shall be done, and no stock-in-trade shall be displayed or sold on the premises.
  - b. Particular Home Occupations permitted: customary home occupations include, but are not limited to, the following list of occupations:
    - i. Dressmakers, seamstresses, tailors.
    - ii. Music teachers, provided that instruction shall be limited to five (5) pupils at a time.
    - iii. Dance and drama instructors, provided that instruction shall be limited to not more than ten (10) pupils at a time.
    - iv. Artists, sculptors, authors, and composers.
    - v. Offices for architects, engineers, lawyers, realtors, insurance agents, brokers, and members of similar professions.
    - vi. Ministers, rabbis, and priests.
    - vii. Offices for salespersons, sales representatives, manufacturer's representatives.
    - viii. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, etc., provided that no machinery or equipment shall be used other than that which would customarily be used in connection with the above home crafts when pursued as a hobby or vocation.
    - ix. Day nurseries or babysitters caring for less than five unrelated children.
    - x. Barbershops and beauty parlors.
    - xi. Services such as small appliance, radio, and T.V. repair.
  - c. Particular Home Occupations prohibited: permitted home occupations shall not, under any circumstances, include:
    - i. Funeral homes.
    - ii. Group daycare centers caring for five (5) or more unrelated children unless specifically permitted by the district regulations.
    - iii. Adult Entertainment.
    - iv. Restaurants.
    - v. Grocery stores.
    - vi. Stables, animal kennels, or hospitals.
    - vii. Tourist homes, unless specifically permitted in the district.
    - viii. Renting of trailers or equipment.
    - ix. Auto and other vehicle repair.
6. HOMEOWNERS ASSOCIATION: a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
7. HOTEL: a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.
8. HOUSEHOLD PET: Any animal or creature kept inside a residential dwelling not out outside, and in no event shall include any of the following: any live monkey, raccoon, skunk, fox,

poisonous or dangerous insect or reptile, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can be normally found in a live state.

### 2.3.9 I

1. IMPERVIOUS COVERAGE: the total horizontal area of all buildings, roofed, or covered spaces, paved surface areas, walkway, driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.
2. IMPERVIOUS SURFACE: a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as rock, gravel, or clay, and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.
3. IMPROVEMENTS: street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other such installation as designated by the Village Board or its specific approving authority.
4. INCIDENTAL USE: a use which is subordinate to the main use of a premise.
5. INDUSTRIAL PARK: a planned, coordinated development of a tract of land with two or more separate industrial buildings. The development is planned, designed, constructed, and managed on an integrated and coordinated basis with an enforceable master plan and/or covenants, conditions, and restrictions with special attention to on-site vehicular circulation, parking, utility needs, building design, and orientation and open space.
6. INDUSTRY: the manufacture, fabrication, processing, reduction or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
7. INFILL DEVELOPMENT: the construction of a building or structure on a vacant parcel located in a predominately built up area.
8. INFILL SITE: any vacant lot, parcel, or tract of land within developed areas of the Village, where at least eighty percent (80%) of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.
9. INOPERABLE MOTOR VEHICLE: any motor vehicle which
  - a. Does not have a current state license plate or
  - b. Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
10. INTENSITY: shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial. High intensity uses are normally uses that generate

concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

11. **INTENT AND PURPOSE:** The Commission and Board by the adoption of this Zoning Ordinance, have made a finding that the health, safety, and welfare of the community will be served by the creation of these districts and by the regulations prescribed therein.

#### **2.3.10 J**

1. **JUNK:** any worn-out, cast-off, old, or discarded articles of scrap, wood, plastic, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled, or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
2. **JUNK YARD:** any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted.

#### **2.3.11 K**

1. **KENNEL, BOARDING:** any lot or premises on which three (3) or more dogs, cats, or non-farm/non-domestic animal or any combination of five (5) or more thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.
2. **KENNEL, COMMERCIAL:** an establishment where four or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age are groomed, bred, boarded, trained, or sold as a business.

#### **2.3.12 L**

1. **LAGOON:** a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
2. **LANDFILL:** a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
3. **LANDSCAPE:** plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
4. **LEED:** a professional credential that means Leadership in Energy and Environmental Design as administered and regulated by the United States Green Building Council.
5. **LIGHT CUT-OFF ANGLE:** an angle from vertical, extending downward from a luminaire, which defines the maximum range of incident illumination outward at the ground plane.
6. **LOFT BUILDING:** A building or space within a building designed for commercial or industrial use, generally constructed prior to 1930.
7. **LOT:** a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of

a recorded subdivision plat or has been recorded prior to the adoption of this Zoning Ordinance, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road. (*See Lot Configurations Diagram, page 30*)

8. LOT AREA: the total area, on a horizontal plane, within the lot lines of a lot.
9. LOT CONSOLIDATION: a method for approval of lot boundary adjustments which reduces the number of lots to not greater than two (2).
10. LOT CORNER: a lot located at the intersection of two (2) or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot." The setbacks for a front yard shall be met on all abutting streets.
11. LOT COVERAGE: the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks, and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.
12. LOT DEPTH: the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
13. LOT, DOUBLE FRONTAGE: a lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.
14. LOT, FRONTAGE: the side of a lot abutting a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.
15. LOT INTERIOR: a lot other than a corner lot.
16. LOT LINE: the property boundary line(s) of record that divides one lot from another or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.
  - a. Front line: the lot lines separating the lot and a public or private street right-of-way.
    - i. For an interior lot, the lot line separating the lot from the right-of-way or easement.
    - ii. For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Utilities Superintendent, or as may be noted on the final plat.
    - iii. For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Utilities Superintendent at the time of application for the original building permit for the lot, or as may be noted on the final plat.
  - b. Rear line: the lot line which is opposite and most distant from the front line.

- c. Side Line: any lot line that is neither a front or a rear lot line. A side lot line separating a lot from a street, private way or court is a street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
17. LOT, NONCONFORMING: a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Zoning Ordinance.
18. LOT, PLATTED: a lot which is part of a subdivision of the plat of which, or the appropriate permit for which, has been legally approved by the Village and recorded in the office of the Register of Deeds for Buffalo County.
19. LOT OF RECORD: a lot held in separate ownership as shown on the records of the County Register of Deeds at the time of the passage of a regulation or regulations establishing the zoning district in which the lot is located.
20. LOT WIDTH: the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lots.

#### **2.3.13 M**

1. MAIL ORDER SERVICE: an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale.
2. MANUFACTURED/MOBILE HOME PARK: a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. This does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.
3. MANUFACTURING: uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquids. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.
4. MAP, OFFICIAL ZONING DISTRICT: a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Shelton Village Board.
5. MEDICAL, DENTAL, OR HEALTH CLINIC: any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight, but which may include an apothecary.

6. **MIXED USE:** properties where various uses are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.
7. **MOBILE HOME:** every transportable or relocated device of any description originally designed to be mobile and designed for living quarters, including double-wide models, that is eight (8) body feet or more in width and forty (40) body feet or more in length, built on a permanent chassis, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. This includes the term “trailer homes.”
8. **MONUMENT:** an identification marker established by certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street centerline, or other point.

#### **2.3.14 N**

1. **NON-CONFORMING BUILDING:** a building or portion thereof which was lawful when established but which does not conform to this Zoning Ordinance or subsequently established zoning or zoning regulations.
2. **NON-CONFORMING STRUCTURE:** A structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.
3. **NON-CONFORMING USE:** a use lawful when established but which does not conform to this Zoning Ordinance or subsequently established zoning or zoning regulations.
4. **NUISANCE:** anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses of a reasonable person such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter, or meets any section of the definition of a nuisance as described in Article 3 of the Shelton Municipal Code; or any other definition as stated in the Village of Shelton Municipal Code 4-302-Nuisances: Specifically Defined.
5. **NURSING HOMES OR CONVALESCENT HOMES:** An institution or agency licensed by the State for the reception, board, care or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

#### **2.3.15 O**

1. **OFFICE:** a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.
2. **OPEN LOTS:** pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreak or small shed-type areas.
3. **OPEN SPACE:** a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

4. **OUTDOOR STORAGE:** the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three (3) days.
5. **OUTDOOR STORAGE CONTAINER:** a fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement. The container must be manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or approved aggregate material and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material and shall not include a foundation, plumbing, electricity, or other mechanical systems as part of its assembly or use.
6. **OVERLAY DISTRICT:** a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.
7. **OWNER:** An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

#### **2.3.16 P**

1. **PARCEL:** a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.
2. **PARK:** any public or private land available for recreational, educational, cultural, or aesthetic use.
3. **PARKING FACILITY:** an area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures.
4. **PARKING SPACES:** an area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with “parking stall.” Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached and townhome residential uses shall be considered to have a means of access to a public street.
5. **PAVED:** permanently surfaced with poured concrete, concrete pavers, or asphalt.
6. **PEDESTRIAN WAY:** a right-of-way or easement dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.
7. **PERMANENT FOUNDATION:** a base constructed from either poured concrete or laid masonry, rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
8. **PERMANENTLY ATTACHED:** connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
9. **PERMITTED USE:** any land use allowed without condition within a zoning district.



10. PERSON: an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, Village, County, special district or any other group or combination acting as an entity, except that it shall not include Shelton, Nebraska.
11. PLACE: An open unoccupied space, other than a publicly-dedicated street or alley, permanently reserved as the principal means of access to abutting property.
12. PLANNED UNIT DEVELOPMENT: development of land which is under unified control and its 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.
13. PLANNING COMMISSION: The Planning Commission of Shelton, Nebraska.
14. PLAT: a map showing the location, boundaries, and legal description of individual properties.
15. PLAT, FINAL: the Final Plat of the plat, subdivision or dedication of land prepared for filing or recording in conformance with these regulations.
16. PLAT, PRELIMINARY: the preliminary plan of the plat, subdivision or dedication prepared in accordance with the requirements of these regulations.
17. PLAT OF RECORD: a map prepared in accordance with the provisions of these regulations and any other applicable local regulations to be placed on record in the office of the Register of Deeds of Buffalo County.
18. POD: a portable storage container designed and intended for the temporary placement upon property for the onsite storage of household or other goods, with a size typically not exceeding 16 ft. x 8 ft. x 8 ft.
19. PRINCIPAL BUILDING: a building in which the primary use of the property is conducted. Any building or structure containing a dwelling unit shall be deemed a principal building or structure in all residential zoning districts.
20. PRINCIPAL USE: the primary activity or structure for which a lot is used, as permitted by this Zoning Ordinance
26. PRODUCER: a person or entity that raises or produces Farm Products on land that the person or entity farms and owns, rents, or leases.
27. PROHIBITED USE: any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
28. PROTECTED ZONE: all lands that fall outside of the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of this Zoning Ordinance.

29. **PUSHCART:** A structure (generally an open-air structure) used for display and sale of products grown or produced on-site and the incidental sale of products from off-site. Sales are conducted on a temporary seasonal basis.

#### **2.3.17 Q**

1. **QUARRY:** an open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed for commercial purposes.

#### **2.3.18 R**

1. **RECREATIONAL FACILITY:** facilities used by the public for passive and active recreation. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks, wildlife conservation areas used for public viewing, and theme parks.
2. **RECREATIONAL VEHICLE (RV):** a vehicular unit less than forty feet (40') in overall length, eight feet (8') in width, or twelve feet (12') in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
3. **RECREATIONAL VEHICLE PARK:** a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
4. **REDEVELOPMENT:** the act of preserving and/or rehabilitating existing buildings. In extreme cases, a building or structure could be demolished for the purposes of a new use or building.
5. **REGULATION:** a specific requirement set forth by this Zoning Ordinance which must be followed.
6. **REPLAT:** the further subdivision of a lot or parcel of land previously subdivided, whether the re-subdivision results in more lots or fewer lots.
7. **RESIDENCE:** a building used, designed, or intended to be used as a home or dwelling place for one or more families.
8. **RESTAURANT:** a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.
9. **REVERSE SPOT ZONING:** an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual land owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
10. **REZONING:** an amendment to or change in the zoning regulations either to the text or map or both.

11. **RIGHT-OF-WAY:** an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
12. **ROADSIDE STAND:** A structure (generally an open-air structure) used for display and sale of products grown or produced on-site and the incidental sale of products from off-site. Sales are conducted on a temporary seasonal basis.

#### **2.3.19 S**

1. **SCREENING:** a structure or planting that conceals from view public ways the area behind such structure or planting.
2. **SELF-SERVICE STATION:** an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
3. **SELF-SERVICE STORAGE FACILITIES:** a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
4. **SERVICE STATION:** a service station shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced, self-service pumps without buildings shall also be included, such service shall not include tire recapping, body repairs or major overhaul.
5. **SETBACK:** the distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
6. **SIGN:** any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization or business.
7. **SITE:** the parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this Zoning Ordinance.
8. **SITE PLAN:** a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information that may be reasonably requested by the Village in order that an informed decision can be made on the associated request.
9. **SITE TRIANGLE:** an area at a street intersection in which nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two feet (2') and ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, ninety feet (90') in each direction along the centerline of the streets. At the intersection of major or arterial streets, the ninety-foot (90') distance shall be increased to one hundred and twenty (120) feet.

10. SHIPPING CONTAINER/STORAGE OR SHIPPING CONEX: a reusable enclosed or semi-enclosed vessel, cargo, container, or truck trailer:
  - a. Originally, specifically, or formerly designed or used for the packing, shipping, movement, or transportation of freight, articles, goods, belongings, or commodities; or
  - b. Designed for or capable of being mounted or moved on a railcar, truck, or vessel' or
  - c. Designed for or capable of being mounted on a chassis or bogie for movement by truck tractor or similar device.
11. SLAUGHTERHOUSE: any establishment primarily engaged in meat processing and packing operations.
12. SPOT ZONING: an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an up zoning to a more intensive use classification.
13. STATE: The State of Nebraska.
14. STORAGE: the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.
15. STORY: that portion of a building, other than a basement, included between the surface of any floor and the surface of 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.
16. STREET: a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except as excluded in this Zoning Ordinance.
17. STREET, ARTERIAL: a street designed with the primary function of efficient movement of through traffic between and around areas of a village, or county with controlled access to abutting property.
18. STREET, COLLECTOR: a street or highway, which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
19. STREET, LOCAL: a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
20. STRUCTURE: anything constructed or erected, the use of which requires permanent attachment on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
21. STRUCTURAL ALTERATIONS: any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or

the exterior walls. For the purpose of this regulation, the following shall not be considered as structural alterations:

- a. attachment of a new front where structural supports are not changed.
- b. addition of fire escapes where structural supports are not changed.
- c. new windows where lintels and support walls are not materially changed.
- d. repair or replacement of non-structural members.

22. **SUBDIVIDER:** any person, group, corporation, partnership, or other entity, or any agency thereof, dividing or proposing to divide land so as to constitute a subdivision.
23. **SUBDIVISION:** the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes and bounds description, lease, map, plat, or other instrument.
24. **SUBDIVISION AGREEMENT:** an agreement between a sub divider and the Village that clearly establishes the sub divider's responsibility regarding project phasing, the provision of public and private facilities and improvements, and any other mutually agreed to terms and requirements.

#### **2.3.20 T**

1. **TANK FARMS:** a facility having two (2) or more storage containers for the transfer of inorganic liquids or gases from which no retail sale of the fuel to the public is or may be conducted.
2. **TAVERN:** an establishment in which the primary function is the public sale and serving of alcoholic beverages for consumption on the premises, including establishments, commonly known as key clubs, which are open, and in which alcoholic beverages are served only to members and their guests.
3. **TEMPORARY STRUCTURE:** a structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. Structure cannot be in place for more than seven (7) days.
4. **TEMPORARY USE:** a use intended for limited duration, not to exceed six months, to be located in a zoning district not permitting such use.
5. **TOWNHOUSE:** A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a town house structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.
6. **TURNAROUND:** a space on private property that permits the turning around of any passenger vehicle without the necessity of using any public right-of-way to turn around.

#### **2.3.21 U**

1. **UPZONING:** a change in the zoning classification of land to a more intensive or less restrictive district.
2. **USE:** the conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

3. USE, BEST: the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety, and general welfare.
4. USE, HIGHEST: an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
5. USE, PERMITTED: any land use allowed without condition within a zoning district.
6. USE, PRINCIPAL: the main use of land or structure, as distinguished from an accessory use.
7. USE, PROHIBITED: any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
8. UTILITIES: the conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.
9. UTILITIES SUPERINTENDENT: the designee of the Village Council, who is responsible for the enforcement of the applicable building code and conditional uses.

#### **2.3.22 V**

1. VALUE ADDED FARM PRODUCT: any product processed by a Producer from a Farm Product, such as baked goods, jams, and jellies.
2. VARIANCE: relief from or variation of the provisions of this Zoning Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning. A variance is a relaxation of the terms of the zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Zoning Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.
3. VIEW CORRIDOR: the line of sight identified as to height, width, and distance of an observer looking toward an object of significance to the community or the route that directs a viewer's attention.
4. VILLAGE: The Village of Shelton, Nebraska.

#### **2.3.23 W**

1. WAIVER: permission to depart from the requirements of an Ordinance with respect to the submission of required documents.
2. WAREHOUSE: a building used primarily for the storage of goods and materials.
3. WATERS OF THE STATE: all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or

underground, material or artificial, public or private, situated wholly within or bordering upon the state.

4. **WETLAND:** an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

#### **2.3.24 X**

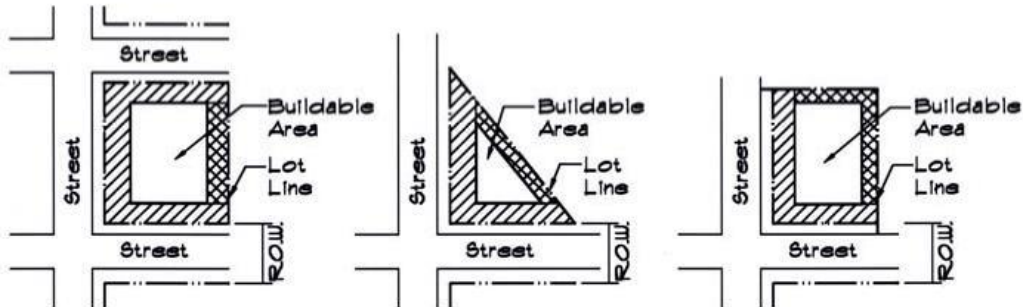
#### **2.3.25 Y**

1. **YARD:** any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Zoning Ordinance.
2. **YARD, FRONT:** a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.
3. **YARD, REAR:** a space between the rear yard setback line and the rear lot line, extending the full width of the yard.
4. **YARD, SIDE:** a space extending from the front yard, or from the front lot line where no front yard is required by this Zoning Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

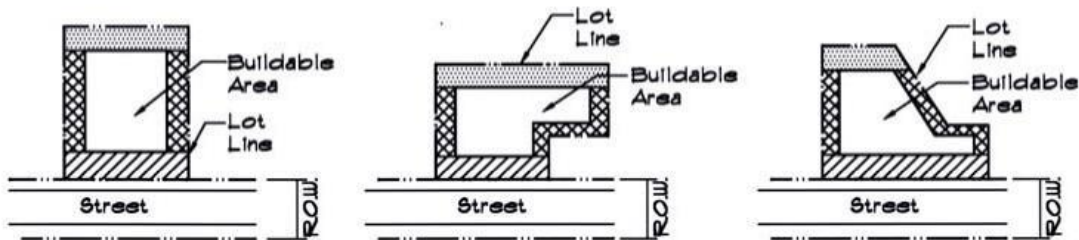
#### **2.3.26 Z**

1. **ZONE OR DISTRICT:** a section of the Zoning Area for which uniform regulations governing the use, height, area, size and intensity of the use of buildings, land, and open spaces about buildings are herein established.
2. **ZONED LOT:** a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by this Zoning Ordinance.
3. **ZONING ADMINISTRATIVE OFFICER:** the person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of this Zoning Ordinance.
4. **ZONING PERMIT:** any permit required by the Village and issued by the Zoning Administrative Officer, to be obtained by any person engaged in any activity governed by the regulations set forth in this Ordinance.
5. **ZONING REGULATIONS:** the term zoning regulations or this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

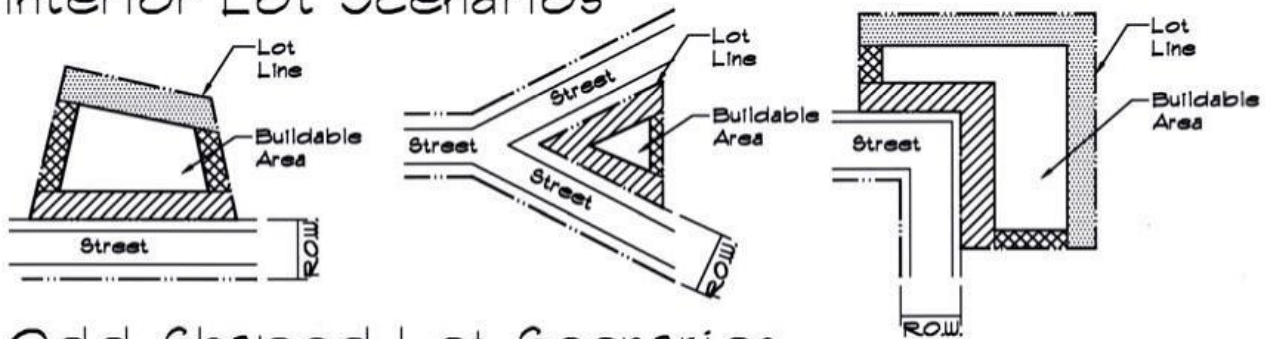
## 2.4 LOT CONFIGURATIONS DIAGRAM



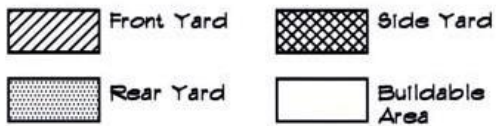
### Corner Lot Scenarios



### Interior Lot Scenarios

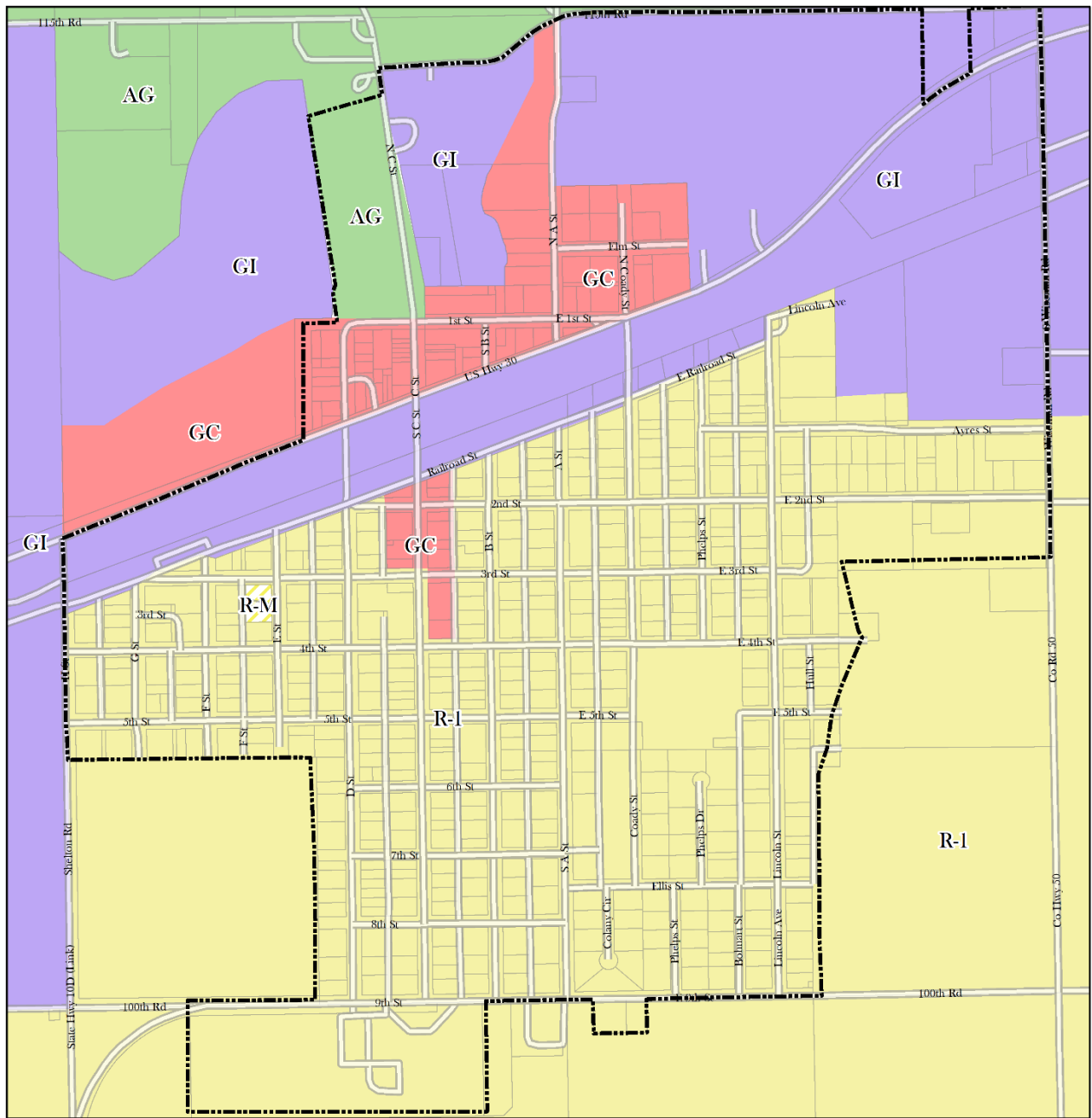


### Odd-Shaped Lot Scenarios





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## Legend

Shelton Boundary

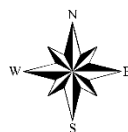
### Zoning Code

- AG *Agricultural*
- GC *General Commercial*
- GI *General Industrial*
- R-1 *Residential*
- R-M *Residential-Mobile*

## Shelton, NE Zoning Districts

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Miles



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## Article Three: Zoning Districts and Official Zoning Map

### 3.1 Purpose

The purpose of Article Three is to present the Zoning District Regulations. Zoning Districts are established in the Zoning Regulations to promote compatible land use patterns and to establish site development regulations appropriate to the purpose and specific nature of each district.

### 3.2 Districts

In order to regulate and restrict the height, location, size, and type of buildings, structures, and uses allowed on land in the Village and the area within one (1) mile of the corporate boundaries, the Village is hereby divided into districts.

### 3.3 Hierarchy

References in this Zoning Ordinance to less intensive or more intensive districts shall be deemed to refer to those districts established in Article Three and shall represent a progression for Agriculture (AG) as the least intensive to Industrial (I) as the most intensive. The Overlay Districts shall not be included in this reference.

### 3.4 District Boundaries

The boundaries of the districts are hereby established as shown on the maps entitled “Official Zoning Map of the Village of Shelton, Nebraska.” Said maps and all explanatory matter thereon accompany and are hereby made a part of this Zoning Ordinance as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Board Chairperson and attested by the Village Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Zoning Ordinance. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map as required by Neb. Rev. Stat. §19-904.

### 3.5 Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 3.5.1 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- 3.5.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 3.5.3 Boundaries indicated as approximately following Village limits shall be construed as following such Village limits.
- 3.5.4 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- 3.5.5 Boundaries indicated as parallel to or extensions of features indicated in subsections (3.5.1) - (3.5.4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- 3.5.6 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Zoning Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

### **3.6 Provisions for Official Zoning Map**

3.6.1 The Village is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Zoning Ordinance. The Official Zoning Map shall be identified by the signature of the Board Chairperson, attested by the Village Clerk, and bearing the seal of the Village under the following words: “This is to certify that this is the Official Zoning Map referred to in Section 3.6 of Ordinance No. \*\*\*\* of the Village of Shelton, Nebraska,” together with the date of the adoption of this Zoning Ordinance.

If, in accordance with the provisions of this Zoning Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Board.

3.6.2 In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Village Board may, by resolution, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Board Chairperson, attested by the Village Clerk, and bearing the seal of Village under the following words, “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \*\*\*\* Ordinance No. \*\*\*\*\* of the Village of Shelton, Nebraska.”

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

### **3.7 Annexation of Territory**

All unimproved or agricultural territory which may hereafter be annexed to the Village shall be considered as lying in the Agricultural District (AG) until such classification shall be changed as provided by this Zoning Ordinance. Any improved property that is annexed into the Village shall be zoned according to the district that most nearly describes either its present use or the proposed use by Shelton’s Comprehensive Plan. This Zoning Ordinance shall be established by the Planning Commission and Village Board at the time of annexation.

### **3.8 Agricultural District (AG)**

Agricultural Districts provide areas for agricultural operations and natural resource industries. These districts are composed mainly of unsubdivided lands that are vacant or are in agricultural use with some dwellings and some accessory uses. AG zoning:

- Protects and preserves valuable agricultural areas.
- Implements agricultural and natural resource protection.
- Establishes performance standards for rural businesses.
- Preserves rural areas.
- Preserves pasture land and agriculture.
- Identifies areas appropriate for agricultural preservation.

The AG District may be used to establish a buffer of low-intensity uses along streams, floodplains, and similar environmentally sensitive areas. The AG District is suitable for areas with large tracts of open space, agricultural areas, woodlands, or fields. The AG District is not suitable for areas with central water and sewer, or where collector or higher-order streets are spaced closer than one (1) mile apart.

Zoning District	“AG”
Height (maximum feet)	200’
Street Side Setback (minimum, feet)	30’
Interior Side Setback (minimum, feet)	15’
Rear Setback (minimum, feet)	10’
Lot Coverage (maximum, percent)	
– Lot equal or less than 10 acres	15%
– Lot more than 10.1 acres	5%

### 3.9 Residential Low Density (R-1)

The Residential Low Density District provides space for low and medium density residential development and allow certain public facilities and services which serve the development. They consist of both single and multi-family dwelling units. This allows for the economic use of land while maintaining a safe and attractive residential environment.

Zoning District	“R-1”
Lot Size (minimum, square feet)	4,500’
Density (maximum, dwelling units per gross acre)	10
Lot Width (minimum, feet)	50’
Height (maximum, feet)	35’
Stories (maximum)	2 ½
Front (Street) Setback (minimum, feet)	25’
Maximum Front Setback (maximum, feet)	35’
*Interior Side Setback (minimum, feet)	10’
Interior Rear Setback (minimum, feet)	7’ **
Lot Coverage (maximum, percent)	50%

\*Interior Side setback-Wherever a lot of record at the time of the passage of this regulation has a width of one hundred (100) feet or less, the interior side yard may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instance shall it be less than four (4) feet.

\*\* Lots adjacent to the Railroad Right of Way may have a minimum rear yard setback of 0 feet.

### 3.10 Residential Manufactured Housing (R-M)

The Residential Manufactured Housing District will permit the placement of single or double wide manufactured homes within either a manufactured home park or manufactured home subdivision, whichever the case may be. Site built dwelling units are also permitted within this district.

Zoning District	“R-M”
Lot size (minimum, square feet)	4,000’
Density (maximum, dwelling units per gross acre)	12
Lot width (minimum, feet)	50’
Height (maximum, feet)	35’
Stories (maximum)	2 ½
Front (Street) setback (minimum, feet)	25’
Maximum front setback (maximum, feet)	35’
*Interior Side setback (minimum, feet)	10’
Interior Rear setback (minimum, feet)	7’
Lot coverage (maximum, percent)	50%

### 3.11 Commercial (C)

This District promotes a broad range of commercial operations and services and supports economic diversification of the economic base of the community.

Zoning District	“C”
Height (maximum feet)	35’
Front (Street) Setback (minimum, feet)	0’
Street Side Setback (minimum, feet)	15’
Interior Side Setback (minimum, feet)	0’
Rear Setback (minimum, feet)	15’ **
Lot Coverage (maximum, percent)	70%

\*\* Lots adjacent to the Railroad Right of Way may have a minimum rear yard setback of 0 feet.

### 3.12 Industrial (I)

The Industrial District provides standards for areas suitable for industrial, commercial, wholesaling, manufacturing, and storage activities, to preserve land for the expansion of the basic economic activities, to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties.

Zoning Code	“I”
Frontage (minimum, feet)	100’
Lot Width (minimum, feet)	100’
Height (maximum, feet)	60’
Stories (maximum)	5
Front Setback (minimum, feet)	10’
Street Side Setback (minimum, feet)	15’
Interior Side Setback (minimum, feet)	0’
Rear Setback (minimum, feet)	10’ **
Lot Coverage (maximum, percent)	80%

\*\* Lots adjacent to the Railroad Right of Way may have a minimum rear yard setback of 0 feet.

### 3.13 Planned Unit Development Overlay (PUD)

The Planned Development District is intended to provide flexibility in the planning and construction of development projects by allowing a combination of uses as long as they are developed in accordance with an approved plan that ensures compatibility with existing developments. PUD projects should surpass the quality of development that would have otherwise resulted from the application of conventional zoning districts.

3.13.1 A PUD may include residential, commercial, industrial, and public land uses, subject to the requirements of the underlying zoning district.

3.13.2 A PUD may be established on a site of any size. Setbacks shall be established by the Planned District Site Plan. Lots located on the perimeter of the site shall adhere to the minimum setback requirements on the underlying zoning district unless a lesser setback is approved in the Planned District Site Plan. The maximum height of structures shall adhere to the requirements of the underlying zoning district unless a lesser setback is approved in the Planned District Site Plan.

3.13.3 Applicant must submit a Planned District Application to the Utility Superintendent. The Planned District application shall include a Development Agreement establishing the development regulations for the property. The Development Agreement must include the following information:

1. Location and quantities of various land uses.

2. When applicable, residential densities.
  3. Maximum lot coverage.
  4. Front, side, and rear yard setbacks.
  5. Maximum heights of proposed structures.
  6. Design standards applicable to the project.
  7. Accompanying development plan that communicates development agreement regulations.
- 3.13.4 The Utilities Superintendent shall not issue a building permit or certificate of occupancy within a PUD unless the proposed structure is in compliance with the Approved Development Agreement.
- 3.13.5 Any modifications to the Development Agreement and accompanying site plan must be submitted to Planning Commission and Village Board for approval. The Utility Superintendent is authorized to approve amendments to an approved development plan only if the changes in alignment and location of structures does not exceed ten (10) feet in any direction.

### **3.14 Floodplain Zoning Overlay District**

- 3.14.1 Statutory Authorization: The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, general welfare, and property of the people of the state. The Legislature, in Neb. Rev. Stat. §§ 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the flood prone area. Therefore, the Village Board of the Village of Shelton, Nebraska ordains all the following.
- 3.14.2 Flood losses resulting from periodic inundation: the flood hazard areas of Shelton, Nebraska are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 3.14.3 General causes of the flood losses: these flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.
- 3.14.4 Statement of purpose: it is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 3.14.2 and 2.14.3 by applying the provisions of this Ordinance to:
1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
  2. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.



3. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.
  4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.
- 3.14.5 Adherence to regulations: the regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.
- 3.14.6 Lands to which Ordinance applies: this Ordinance shall apply to all lands the jurisdictions of the Village of Shelton identified on the Flood Insurance Rate Map (FIRM) panels, Flood Insurance Rate Map (FIRM) panels: 31019C0515D, dated 11/26/10; 31079C0225D, dated 9/26/08; and 31019C0500D, dated 11/26/10, as Zone A and within the Zoning District established in 3.14.13 of this Ordinance. In all areas covered by this Ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the Floodplain Administrator or the governing body under such safeguards and restrictions as the Village Board or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health, of the inhabitants of the community and where specifically noted in this Ordinance.
- 3.14.7 Rules for interpretation of district boundaries: the boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map on the effective Flood Insurance Rate map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the Floodplain Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Shelton Zoning Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Shelton Zoning Board of Adjustment and to submit their own technical evidence, if so desired.
- 3.14.8 Compliance: within identified floodplains of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.
- 3.14.9 Abrogation and greater restrictions: this Ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- 3.14.10 Interpretation: in their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- 3.14.11 Warning and disclaimer of liability: the degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes,

such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Ordinance shall not create liability on the part of the Village of Shelton or any officer or employee thereof for any flood damages that may result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

- 3.14.12 Severability: if any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- 3.14.13 Establishment of zoning districts: the mapped floodplain areas within the jurisdiction of this Ordinance are hereby established as the Floodplain Overlay District, as identified in the Flood Insurance Study dated... and on accompanying FIRM panels as established in 3.14.6. The Floodplain Overlay District shall correspond to Flood Zone A. Within this district, all uses not meeting the standards of this Ordinance and those standards of the underlying zoning district shall be prohibited.
- 3.14.14 Designation of Floodplain Administrator: the Utilities Supervisor of the community is hereby designated as the community's local Floodplain Administrator. The Floodplain Administrator is authorized and directed to administer, implement, and enforce all provisions of this Ordinance. If the local Floodplain Administrator position is unfilled, the community CEO shall assume the duties and responsibilities herein.
- 3.14.15 Permits required: a floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.
- 3.14.16 Duties of the Floodplain Administrator: duties of the Floodplain Administrator shall include, but not be limited to the following:
1. Review, approve, or deny all applications for floodplain development permits.
  2. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this Ordinance have been satisfied.
  3. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
  4. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
  5. Coordinate with the Nebraska Department of Natural Resources to obtain base flood elevation information when applicable and required.
  6. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

7. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
  8. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
  9. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been flood proofed.
  10. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
  11. Ensure Comprehensive Development Plan as amended is consistent with this Ordinance.
  12. In the event the Floodplain Administrator discovers work done that does not comply with applicable laws or Ordinances, the Floodplain Administrator shall revoke the permit and work to correct any possible violation in accordance with this Ordinance.
- 3.14.17 To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
1. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.
  2. Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
  3. Indicate the use or occupancy for which the proposed development is intended.
  4. Be accompanied by plans and specifications for proposed construction.
  5. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
- 3.14.18 If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
1. All such proposals are consistent with the need to minimize flood damage;
  2. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
  3. Structures will be anchored to prevent flotation, collapse, or lateral movement;
  4. Construction materials are flood resistant;
  5. Appropriate practices to minimize flood damage have been utilized; and

6. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
- 3.14.19 For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the Floodplain Administrator and be completed by a licensed surveyor, engineer, or architect.
  - 3.14.20 When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the Floodplain Administrator and be completed by a licensed professional engineer or architect.
  - 3.14.21 Any other information as reasonably may be required by the Floodplain Administrator shall be provided.
  - 3.14.22 All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this Ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.
  - 3.14.23 Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.
  - 3.14.24 Variance and Appeals Procedures
    1. The Shelton Zoning Board of Adjustment as established by the Shelton Village Board shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
    2. The Shelton Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
    3. Any person aggrieved by the decision of the Shelton Zoning Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Neb. Rev. Stat. §23-168 (for counties) and Neb. Rev. Stat. §19-192 (for municipalities).
    4. In evaluating such appeals and requests, the Shelton Zoning Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this Ordinance, and:
      - a. The danger to life and property due to flooding or erosion damage;
      - b. The danger that materials may be swept onto other lands to the injury of others;
      - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;

- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity of the facility to have a waterfront location, where applicable;
- f. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the Comprehensive Plan and the floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- k. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

#### 3.14.25 Conditions for Variances

1. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
2. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
3. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
4. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
5. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
6. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
7. The applicant shall be given a written notice over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Ordinance.

8. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

3.14.26 Violations: failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this Ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

3.14.27 Notices: when the Floodplain Administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this Ordinance, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. Be in writing;
2. Include an explanation of the alleged violation;
3. Allow a reasonable time for the performance of any remedial act required;
4. Be served upon the property owner or their agent as the case may require; and
5. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this Ordinance.

3.14.28 Penalties

1. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred dollars (\$100.00), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
2. The imposition of such fines or penalties for any violation or non-compliance with this Ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
3. Nothing herein contained shall prevent the Village of Shelton or other appropriate authority from taking such other lawful action as is necessary to prevent.

3.14.29 Alteration or Relocation of a Watercourse

1. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
2. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all

applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

#### 3.14.30 Encroachments

1. When proposing to permit any of the following encroachments, the standards in Section 3.14.30(b)(ii) shall apply:
  - a. Any development in Zone A without a designated floodway that will cause a rise of more than one foot (1') in the base elevation; or
  - b. Alteration or relocation of a stream; then
2. The applicant shall:
  - a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
  - b. Supply the fully approved package to the Floodplain Administrator, including any required notifications to potentially affected property owners.

3.14.31 Residential structures: in Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one foot (1') above the base flood elevation.

3.14.32 Nonresidential structures: in Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one foot (1') above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one foot (1') above the base flood elevation:

1. The structure is watertight with walls substantially impermeable to the passage of water; and
2. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyance.

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the Floodplain Administrator as set forth in Section 4.

#### 3.14.33 Space below lowest floor

1. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
2. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a net total area of not less than one square inch (1") for one square foot (1') of enclosed space;
  - b. The bottom of all openings shall not be higher than one foot (1') above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodways.

3.14.34 Manufactured Homes: option within any floodplain, manufactured homes shall be prohibited.

#### 3.14.34 Existing Structures

1. The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required.
2. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty percent (50%) of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this Ordinance.
3. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.

#### 3.14.35 Design and Construction Standards

1. Anchoring: all buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. Building materials and utilities:
  - a. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
  - b. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
3. Drainage: within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures
4. Water Supply and Sanitary Sewer Systems
  - a. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
  - b. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.
  - c. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.
5. Other utilities: all other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.



6. Storage of materials:

- a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- b. The storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

7. Recreational vehicles: recreational vehicles to be placed on sites within the floodplain shall:

- a. Be on site for fewer than 180 consecutive days;
- b. Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or
- c. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this Ordinance.

3.14.36 Subdivisions: subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:

1. All such proposals are consistent with the need to minimize flood damage;
2. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
3. Adequate drainage is provided so as to reduce exposure to flood hazards; and
4. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

3.14.37 Nonconforming Use: a structure or use of a structure or premises that was lawful before the passage or amendment of this Ordinance, but that is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

1. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The Utility Department shall notify the Floodplain Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.
2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

3.14.38 If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or

local health, sanitary, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

3.14.39 The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulation provided, however, that no such action may be taken until after a public hearing in relation thereto at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such a hearing shall be published in a newspaper of general circulation in the Village of Shelton. At least five (5) days shall elapse between the date of this publication and the public hearing.

1. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.

3.14.40 Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application:

1. **AREA OF SHALLOW FLOODING:** a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
2. **BASE FLOOD:** the flood having a one percent (1%) chance of being equaled or exceeded in any given year.
3. **BASE FLOOD ELEVATION:** the elevation to which floodwaters are expected to rise during the base flood.
4. **BASEMENT:** any area of the building having its floor subgrade (below ground level) on all sides.
5. **BUILDING:** see definition for "structure."
6. **DEVELOPMENT:** any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.
7. **DRAINWAY:** see definition for "watercourse."
8. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.
9. **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** the preparation of additional sites by the construction of facilities for servicing the lots on which

the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

10. FLOOD OR FLOODING: a general and temporary condition of partial or complete inundation of normally dry land areas.
11. FLOOD FRINGE: that area of the floodplain, outside of the floodway, that has a one percent (1%) chance of flood occurrence in any one (1) year.
12. FLOOD INSURANCE RATE MAP (FIRM): an official map of a community on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.
13. FLOOD INSURANCE STUDY (FIS): the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.
14. FLOODPLAIN: any land use susceptible to being inundated by water from any source (see definition of “flooding”). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area the same for use by this Ordinance.
15. FLOODPROOFING: any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.
16. FLOODWAY OR REGULATORY FLOODWAY: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1’).
17. FREEBOARD: a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
18. HIGHEST ADJACENT GRADE: the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
19. HISTORIC STRUCTURE: any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;or

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - i. By an approved state program as determined by the Secretary of the Interior; or
    - ii. Directly by the Secretary of the Interior in states without approved programs.
- 20. **LOWEST FLOOR:** the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built or modified so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
- 21. **MANUFACTURED HOME:** a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- 22. **MANUFACTURED HOME PARK OR SUBDIVISION:** a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
- 23. **NEW CONSTRUCTION:** for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 24. **NEW MANUFACTURED HOME PARK OR SUBDIVISION:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- 25. **OBSTRUCTION:** any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainageway), channel rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (Neb. Rev. Stat. §§ 46-1601 to 46-1670 as amended).
- 26. **OVERLAY DISTRICT:** a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.
- 27. **POST-FIRM STRUCTURE:** a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated: 11/26/10 [31019C0515D]; 9/26/08 [31079C0225D]; or 11/26/10 [31019C0500D], whichever is later.

28. **PRE-FIRM STRUCTURE:** a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated: 11/26/10 [31019C0515D]; 9/26/08 [31079C0225D]; or 11/26/10 [31019C0500D], whichever is later.
29. **PRINCIPALLY ABOVE GROUND:** that at least fifty-one percent (51%) of the actual cash value of the structure is above ground.
30. **RECREATIONAL VEHICLE:** a vehicle is:
- a. Built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projections;
  - c. Designed to be self-propelled or permanently towable by a light duty truck; and
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
31. **REGULATORY FLOOD ELEVATION:** the base flood elevation (BFE) plus a freeboard factor as specified in this Ordinance.
32. **SPECIAL FLOOD HAZARD AREA (SFHA):** the land in the floodplain within a community subject to one percent (1%) or greater chance of flooding in any given year.
33. **START OF CONSTRUCTION:** the date the floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also includes substantial improvement, and means the date of building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
34. **STRUCTURE:** a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground.
35. **SUBDIVISION:** the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.

36. **SUBSTANTIAL DAMAGE:** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
37. **SUBSTANTIAL IMPROVEMENT:** any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  - b. Any alteration of a “historic structure, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
38. **VARIANCE:** a grant of relief to an applicant from the requirements of this Ordinance that allows construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.
39. **VIOLATION:** a failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.
40. **WATERCOURSE:** any depression two feet (2’) or more below the surrounding land that serves to give direction to a current of water at least nine (9) months of the year that has a bed and well-defined banks.

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## Article Four: Use Regulation Matrix

Use/Activity	AG	R-1	R-M	C	I
Single-family detached dwellings	P	P	P	—	—
Single-family attached dwellings	P	P	P	—	—
Duplex structures	—	P	P	—	—
Zero lot line or row houses	—	—	—	—	—
Accessory dwelling units	—	P	—	—	—
Accessory apartments	—	—	—	—	—
Townhouses	—	P	—	—	—
Manufactured housing, residential design	P	P	P	—	—
Mobile housing	—	—	P	—	—
Multifamily dwellings	—	C	C	—	—
Congregate living services	—	—	—	—	—
Assisted living services	—	C	P	—	—
Skilled nursing services	—	C	—	C	—
Barracks	—	—	—	—	—
College fraternities	—	—	—	—	—
Dormitories	—	—	—	—	—
Single-room occupancy units	—	—	—	—	—
Care Taker Quarters	—	—	—	P	P
Temporary structures, tents, etc., for shelter	P	P	P	P	P
Other structurally converted buildings	—	—	—	—	—
Bed-and-breakfast inn	C	C	—	C	—
Rooming and boarding house	C	C	—	C	—
Hotel, motel, or tourist court	—	—	—	P	P
Commercial center	C	—	—	P	P
Shop or store building with drive-through facility	—	—	—	C	C
Restaurant, with incidental consumption of alcoholic beverages	—	—	—	P	—

AG= Agricultural; R-1= Low Density Housing; R-M Manufactured Housing; C = Commercial; I = Industrial; P = permitted uses; C = conditional uses. A dash (“—”) indicates prohibited uses.



## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Restaurant, with no consumption of alcoholic beverages permitted	—	—	—	P	P
Stand-alone store or shop building	—	—	—	P	P
Department store building	—	—	—	P	P
Warehouse discount store/superstore	—	—	—	P	P
Farmer's Market	P	P	P	P	P
Gasoline station	—	—	—	P	P
Automobile repair and service structures	—	—	—	P	P
Car dealer	—	—	—	P	P
Bus, truck, mobile home, or large vehicle dealers	—	—	—	P	P
Bicycle, motorcycle, all-terrain vehicle dealers	—	—	—	P	P
Boat or marine craft dealer	—	—	—	P	P
Parts, accessories, or tires	—	—	—	P	P
Gasoline service	—	—	—	P	P
Lumberyard and building materials	—	—	—	P	P
Outdoor resale business	—	—	—	P	P
Pawnshops	—	—	—	P	P
Beer, wine, and liquor store (off-premises consumption of alcohol)	—	—	—	P	P
Shopping center	—	—	—	P	P
Convenience stores or centers	—	—	—	P	P
Car care center	—	—	—	P	P
Car washes	—	—	—	P	P
Office or bank building, stand-alone (without drive-through facility)	—	—	—	P	P
Office building (with drive-through facility)	—	—	—	P	P
Office or store building with residence on top	—	—	—	P	P
Office building over storefronts	—	—	—	P	P

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A dash ("—") indicates prohibited uses.

## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Research-and- development services (scientific, medical, and technology)	—	—	—	P	P
Car rental and leasing	—	—	—	P	P
Leasing trucks, trailers, recreational vehicles, etc.	—	—	—	P	P
Services to buildings and dwellings (pest control, janitorial, landscaping, carpet/upholstery cleaning, parking, and crating)	—	C	C	P	P
Bars, taverns, and nightclubs	—	—	—	P	P
Camps, camping, and related establishments	C	—	—	C	C
Tattoo parlors	—	—	—	P	P
Loft building	P	—	—	P	P
Mill-type factory structures	—	—	—	—	C
Manufacturing plants	—	—	—	C	P
Industrial parks	—	—	—	—	P
Laboratory or specialized industrial facility	—	—	—	C	P
Assembly and construction-type plants	—	—	—	C	P
Process plants (metals, chemicals, etc.)	—	—	—	—	P
Construction-related businesses	—	—	—	C	P
Automotive wrecking and graveyards, salvage yards, and junkyards	—	—	—	—	C
Demolition business	—	—	—	—	C
Recycling business	—	—	—	—	C
High-rise mini-warehouse	—	—	—	—	C
Warehouse structure	C	—	—	C	C
Produce warehouse	C	—	—	C	C
Shipping Container/Storage or Shipping Conex	C	—	—	C	C

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A dash (“—”) indicates prohibited uses.*

## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Refrigerated warehouse or cold storage	C	—	—	C	C
Large area distribution or transit warehouse	C	—	—	C	C
Wholesale trade— durable goods	C	—	—	C	C
Wholesale trade— nondurable goods	C	—	—	C	C
Tank farms	C	—	—	—	C
Performance theater	—	—	—	P	P
Movie theater	—	—	—	P	—
Amphitheater	—	—	—	P	—
Drive-in theaters	C	—	—	—	P
Amusement, sports, or recreation establishment (not specifically enumerated)	C	—	—	C	C
Amusement or theme park	C	—	—	C	C
Arcade	—	—	—	P	C
Miniature golf establishment	C	—	—	P	C
Fitness, recreational sports, gym, or athletic club	C	—	—	P	C
Bowling, billiards, pool, etc.	C	—	—	P	C
Skating rinks	C	—	—	P	C
Sports stadium or arena	C	—	—	P	C
Racetrack	C	—	—	—	C
Exhibition, convention, or conference structure	C	—	—	P	P
Churches, temples, synagogues, mosques, and other religious facilities	P	P	P	P	P
Covered or partially covered atriums and public enclosures	—	—	—	C	C
Passenger terminal, mixed mode	—	—	—	—	C
Active open space/ athletic fields/golf courses	C	C	C	C	C

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## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Passive open space	P	P	P	P	P
Hospital building	C	—	—	P	P
Medical clinic building	C	—	—	P	P
Social assistance, welfare, and charitable services (not otherwise enumerated)	—	—	—	P	P
Child and youth services	C	—	—	P	P
Child care institution Nebraska Designated Home I	C	C	C	C	C
Child care institution Nebraska Designated Home II	C	C	C	C	C
Group daycare center	C	C	C	C	C
Community food services	—	—	—	P	P
Emergency and relief services	—	—	—	P	P
Services for elderly and disabled	C	—	—	P	P
Animal hospitals	P	—	—	P	P
School or university buildings (privately owned)	C	—	—	P	P
Grade school (privately owned)	C	—	—	P	—
College or university facility (privately owned)	C	—	—	P	—
Trade or specialty school facility (privately owned)	C	—	—	P	—
Library building	—	—	—	P	—
Museum, exhibition, or similar facility	C	—	—	P	—
Exhibitions and art galleries	C	—	—	P	—
Planetarium	C	—	—	P	—
Aquarium	C	—	—	P	—
Zoological parks	C	—	—	C	—
Public safety-related facility	C	—	—	P	P
Fire and rescue station	C	—	—	P	P
Police station	C	—	—	P	P

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## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Emergency operation center	C	—	—	C	C
Correctional or rehabilitation facility	C	—	—	C	C
Cemetery, tombstone, or mausoleum	P	C	C	C	C
Funeral homes	C	—	—	P	—
Cremation facilities	C	—	—	—	C
Public administration	C	—	—	P	P
Post offices	—	—	—	P	P
Space research and technology	C	—	—	P	P
Clubs or lodges	C	—	—	C	C
Automobile parking facilities	—	—	—	C	—
Surface parking, open	P	—	—	P	P
Surface parking, covered	P	—	—	P	P
Multistoried parking structure with ramps	P	—	—	P	P
Underground parking structure with ramps	—	—	—	C	C
Rooftop parking facility	—	—	—	P	P
Bus terminal	C	—	—	C	C
Bus stop shelter	C	—	—	C	C
Bus or truck maintenance facility	C	—	—	C	C
Truck and freight transportation services	C	—	—	C	C
Road, ground passenger, and transit transportation	C	—	—	C	C
Local transit systems— includes mixed mode	C	—	—	C	C
Local transit systems— commuter rail	C	—	—	C	C
Local transit systems— bus, special needs, and other motor vehicles	C	—	—	C	C
Interurban, charter bus, and other similar establishments	C	—	—	C	C
Taxi and limousine service	C	—	—	C	C
School and employee bus transportation	C	C	C	C	C
Towing and other road services	C	—	—	P	P

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## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Space transportation	C	—	—	—	C
Pipeline transportation	C	—	—	—	C
Postal transportation services	C	—	—	P	P
Courier and messenger services	C	—	—	P	P
Air and space transportation facility	C	—	—	—	C
Airport terminal	—	—	—	—	—
Runway	—	—	—	—	—
Airport maintenance and hangar facility	—	—	—	—	—
Airport control tower	—	—	—	—	—
Heliport facility	—	—	—	—	—
Glideport, seaport, stolport, ultralight, or balloonport facility	—	—	—	—	—
Railroad facility	C	—	—	C	C
Utility structures on right-of-way	P	P	P	P	P
Water supply-related facility	C	C	C	C	C
Water supply pump station	P	P	P	P	P
Dam	C	C	C	C	C
Levee	C	C	C	C	C
Culvert	P	P	P	P	P
Water tank (elevated, at grade, underground)	P	P	P	P	P
Private Wells	C	—	—	—	C
Water treatment and purification facility	C	C	C	C	C
Water reservoir	C	—	—	C	C
Irrigation facilities	P	—	—	—	C
Wastewater storage or pumping station facility; lift stations	P	P	P	P	P
Solid waste landfill facility	C	—	—	—	C
Incinerator, composting, or similar facility	C	—	—	—	C
Hazardous waste collection	C	—	—	—	C
Hazardous waste treatment and disposal	—	—	—	—	—
Solid waste collection	—	—	—	—	—

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## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Solid waste combustor or incinerator	—	—	—	—	—
Septic tank and related services	C	—	—	C	C
Hazardous waste storage facility	C	—	—	—	C
Sewer treatment plant	C	—	—	—	—
Gas or electric power generation facility	C	—	—	—	—
Communication towers	C	C	C	C	C
Radio, television, or wireless transmitter	C	C	C	C	C
Weather stations or transmitters	C	C	C	C	C
Environmental monitoring station (air, soil, etc.)	C	C	C	C	C
Highway rest stops and welcome centers	P	—	—	P	P
Roadside stand, pushcarts, etc.	C	C	C	C	C
Kiosks	P	—	—	P	P
Playground equipment	P	P	P	P	P
Fountain, sculpture, monument, or other aesthetic structure	P	P	P	P	P
Outdoor stage, bandstand, or similar structure	C	—	—	C	C
Grain silos and other storage structure for grains and agricultural products	P	—	—	C	P
Slaughterhouse	C	—	—	C	C

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## Use Matrix

Use/Activity	AG	R-1	R-M	C	I
Commercial Greenhouses/nurseries	P	—	—	P	P
Domestic Livestock Use	C	C	C	C	C
Kennels and other canine-related facilities	C	—	—	—	C
Apiary and other related structures	C	—	—	—	—
Crop production	P	P	P	P	P
Commercial Forestry and logging	P	—	—	—	—
Fishing, hunting, and trapping, including game preserves and retreats	P	—	—	—	—
Support functions for agriculture and forestry	P	—	—	P	P
Oil and natural gas	—	—	—	—	—
Metals (iron, copper, etc.)	—	—	—	—	—
Coal	—	—	—	—	—
Nonmetallic mining	—	—	—	—	—
Quarrying and stone cutting	—	—	—	—	—

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## Article Five: Supplemental Provisions

### 5.1 Purpose

The Supplemental Provisions set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this Zoning Ordinance. The regulations contained in this Article pertain both to uses allowed by right within various zoning districts and to uses that require approval as Special Uses by the Board of Adjustment. Nothing contained in this section shall limit the right of the Board of Adjustment to impose additional conditions on developments seeking Special Use approval.

### 5.2 Lot Requirements

Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.

5.2.1 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the Village Board.

- a Institutional buildings
- b Public or semi-public buildings
- c Multiple-family dwellings
- d Commercial or industrial buildings
- e Home for the aged
- f Agricultural buildings

### 5.3 Reductions in Lot Area Prohibited

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Zoning Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

### 5.4 Through Lots

Through Lots shall follow the following criteria:

5.4.1 Where a Through Lot abuts a major thoroughfare and access is made from the other frontage street and access along said thoroughfare is restricted, the Rear Yard setback for fences and screening devices shall be zero feet. The Rear Yard setback for accessory buildings shall follow the prescribed setback within the zoning district.

5.4.2 Where a Through Lot is part of a triple frontage lot and abuts a major thoroughfare, the Rear Yard shall meet the standards of 5.4.1, while the other two frontages shall be treated as a Corner Lot with a Front Yard setback and a Street Side Yard setback.

5.4.3 Where a Through Lot occurs, other than along a major thoroughfare, the following shall apply:

- a. Where all principal structures in the development face the same frontage, then the Rear Yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage

lots, provided the remaining two frontages are treated like a typical Corner Lot.

- b. Where principal structures face different directions along both frontages, the Rear Yard setback for fences and screening shall be the same as any prescribed Rear Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot. All accessory buildings in this condition, shall comply with the minimum Rear Yard setbacks rather than the reduced setback allowed for accessory buildings.

## **5.5 Obstructions to Vision at Street Intersections Prohibited**

A corner lot, within the area formed by the center line of streets at a distance of sixty feet (60') from their intersections, there shall be no obstruction to vision between a height of two and one-half feet (2 ½') and a height of ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the 60-foot distance shall be increased to ninety feet (90') for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

## **5.6 Yard Requirements**

- 5.6.1 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 5.6.2 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 5.6.3 The Village may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) more than thirty percent (30%) of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Zoning Ordinance, and 2.) a minority of such structures have observed or conformed to an average setback line.

## **5.7 Permitted Obstructions in Required Yards**

The following shall not be considered to be obstructions when located in the required yards:

- 5.7.1 All Yards: Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet (4') or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting twenty-four inches (24") or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen inches (18") into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 5.7.2 Front Yards: Bay windows projecting three feet (3') or less into the yard are permitted.
- 5.7.3 The required front yard shall be provided on each street, unless otherwise provided.

- 5.7.4 Building Groupings: For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

## 5.8 Fences

No fence shall be constructed within the zoning jurisdiction of the Village of Shelton unless a permit therefore is approved and issued by the Utilities Superintendent and is constructed in conformance with the following requirements:

- 5.8.1 The height limitation for fences shall be eight feet (8') above ground level except as provided herein.

- a. A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed four feet (4') in height.
- b. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than ten feet (10') in height may be approved through a Conditional Use Permit.
- c. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed ten feet (10') in height.
- d. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed ten feet (10') in height.

- 5.8.2 Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.

- 5.8.3 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.

- 5.8.4 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the Village agree to build one (1) fence on the common lot line of adjacent side yards or back yards.

- 5.8.5 No electric fence shall be constructed or maintained within the Village of Shelton or within its extraterritorial zoning jurisdiction except in Agriculture District as hereinafter provided. An owner or lessee of such property may, upon application to the Village and approval by the Utilities Superintendent, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Utilities Superintendent shall approve any electrified fencing, he shall determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

5.8.6 The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

5.8.7 Any existing fence constructed pursuant to a permit issued and approved by the Village of Shelton which was in conformity prior to the provisions of this Zoning Ordinance may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, any replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

## **5.9 Drainage**

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the Village or their designated agent with data indicating that such changes will not be a detriment to the neighboring lands.

## **5.10 Accessory Buildings and Uses**

5.10.1 No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction, defined here as the commencement of grading or dirt work, of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use. A conditional use permit may be sought from the Village Board to deviate from this requirement and build an accessory building on a lot without a principal building.

5.10.2 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.

5.10.3 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.

5.10.4 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building as provided in the local zoning and subdivision regulations (*see setbacks beginning with 3.8 Agricultural District, pages 38-41*).

5.10.5 All accessory buildings shall be to the side or rear of the principal structure unless otherwise specified.

5.10.6 Garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction. Portable storage containers, shipping containers, truck trailers, and other similar storage structures are not permitted in any residential area, unless used for a temporary manner, not to exceed seven (7) consecutive days, unless allowed by the Utilities Superintendent.

### **5.11 Nonconforming, General Intent**

It is the intent of this Zoning Ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this Zoning Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Zoning Ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

### **5.12 Nonconforming Lots of Record**

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this Zoning Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; *that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful*; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinances would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

### **5.13 Nonconforming Structures**

5.13.1 Authority to continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

5.13.2 Enlargement, Repair, Alterations: Any such structure described in Section 5.13.1 may be enlarged, maintained, repaired or remodeled, so long as no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by or as specified in the Residential District. All enlargements shall meet all existing required setbacks unless provided elsewhere in this Zoning Ordinance.

5.13.3 Damage or Destruction: In the event that any structure described in Section 5.13.1 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Chapter Three, shall not have a side yard of less than five feet (5'). When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and may be extended six (6) months upon an approved Building Permit extension request.

5.13.4 Moving: No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

## **5.14 Nonconforming Uses**

5.14.1 Nonconforming Uses of Land: Where at the effective date of adoption or amendment of this Zoning Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Zoning Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Ordinance.
- b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Zoning Ordinance.
- c. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Zoning Ordinance for the district in which such land is located.

5.14.2 Nonconforming Uses of Structures: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Zoning Ordinance, that would not be allowed in the district under the terms of this Zoning Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

- a. No existing structure devoted to a use not permitted by this Zoning Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.
- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Ordinance but no such use shall be extended to occupy any land outside such building.
- c. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Planning Commission and Village Board, after each has completed a Public Hearing as per State Statute, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission and/or Village Board may require appropriate conditions and safeguard in accord with the provisions of this Zoning Ordinance.
- d. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.
- e. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

- f. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

### **5.15 Repairs and Maintenance**

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this Zoning Ordinance shall not be increased. Nothing in this Zoning Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### **5.16 Uses Under Special Use Permits Not Nonconforming Uses**

Any use for which a special permit is issued as provided in this Zoning Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

### **5.17 Fees**

All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be a part of the Master Fee Schedule adopted by the Village Board by separate Ordinance.

### **5.18 Sign Regulations**

5.18.1 Purpose: The purpose of these sign regulations are: to encourage the effective use of signs as a means of communication in the Village; to maintain and enhance the aesthetic environment and the Village's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. These sign regulations are adopted under the zoning authority of the Village in furtherance of the more general purposes set forth in the Zoning Ordinance.

5.18.2 Applicability: A sign may be erected, placed, established, painted, created, or maintained within the Village and the Village's extraterritorial zoning jurisdiction only in conformance with the standards, procedures, exemptions and other requirements of these sign regulations.

#### **5.18.3 Computations**

- a. *Computation of Area of Individual Signs:* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets Zoning Ordinance regulations and is clearly identical to the display itself.
- b. *Computation of Area of Multi-Faced Signs:* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot



be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.

- c. *Computation of Height:* The height of a sign shall be computed as the distance from the grade at the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be from finished grade. Any berms shall be construed to be a part of the sign base and added to the overall height of the sign.

#### 5.18.4 Compliance

Each sign or part of a sign erected within the zoning jurisdiction of the Village of Shelton must comply with the provisions of this Article and of other relevant provisions of the Village of Shelton's Municipal Code.

#### 5.18.5 Prohibited Signs

The following signs are prohibited in all zoning districts:

- a. Signs painted on or attached to rocks, trees, or other natural objects.
- b. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
- c. Signs on or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
- d. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
- e. Any abandoned sign must be removed within six (6) months of date of abandonment.
- f. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers, except as provided below.
- g. Signs that are not clean or in substantial good repair, or are not affixed to a sound structure.
- h. Signs advertising activities that are illegal under Federal, state, or local laws and regulations.

#### 5.18.6 Exempt Signs

The following signs are permitted in any zoning district and are exempt from other provisions of these regulations, provided such signs are not located in the designated sight triangle:

- a. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of 20 square feet (20') and are not located in a required sign setback.
- b. Real estate signs.
- c. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.
- d. Seasonal decorations for display on private or public property.
- e. On-premise construction signs.

- f. One temporary sign per zoned lot for grand openings or special events, provided that such sign remains in place for a maximum of seven days and is not located within the designated sight triangle.
  - g. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
  - h. Residential signs under two square feet (2') in size.
  - i. Neighborhood or subdivision identification signs under fifty square feet (50').
  - j. Street numbers.
  - k. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.
- 5.18.7 Bufferyards
- a. No sign other than on-premise directional signs shall be placed within any required bufferyard, except when the bufferyard is adjacent to a street.

#### 5.18.8 Sign Types Allowed

Sign types shall only be allowed in permitted districts per the table below. Signs in R-1, R-M and AG Districts shall refer to 5.19.5.

<b>SIGN TYPES</b>	<b><i>GC</i></b>	<b><i>GI</i></b>
<b><i>Detached Signs</i></b>		
<b><i>Residential</i></b>	<b>P</b>	<b>N</b>
<b><i>Premise Identification</i></b>	<b>P</b>	<b>P</b>
<b><i>Directional</i></b>	<b>P</b>	<b>P</b>
<b><i>Ground</i></b>	<b>P</b>	<b>P</b>
<b><i>Pole</i></b>	<b>P</b>	<b>P</b>
<b><i>Attached Signs</i></b>		
<b><i>Awning</i></b>	<b>P</b>	<b>P</b>
<b><i>Banner</i></b>	<b>P</b>	<b>P</b>
<b><i>Building Marker</i></b>	<b>P</b>	<b>P</b>
<b><i>Canopy</i></b>	<b>P</b>	<b>P</b>
<b><i>Premise Identification</i></b>	<b>P</b>	<b>P</b>
<b><i>Incidental</i></b>	<b>P</b>	<b>P</b>
<b><i>Marquee</i></b>	<b>P</b>	<b>P</b>
<b><i>Projecting</i></b>	<b>P</b>	<b>P</b>
<b><i>Roof, Integral</i></b>	<b>N</b>	<b>N</b>
<b><i>Roof, Above Peak</i></b>	<b>N</b>	<b>N</b>
<b><i>Wall</i></b>	<b>P</b>	<b>P</b>
<b><i>Window</i></b>	<b>P</b>	<b>P</b>
<b><i>Miscellaneous Signs</i></b>		
<b><i>Flag Sign</i></b>	<b>P</b>	<b>P</b>

*GC=General Commercial, GI = General Industrial.*

*P = permitted uses; C = conditional uses; A dash (“—”) indicates prohibited uses.*

## 5.19 Signage Design Elements

### 5.19.1 Illumination

Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.

### 5.19.2 Marquees and Marquee Signs

Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.

### 5.19.3 Banners

Banners and Flags displaying advertising, other than for Federal, State, Local, Civic and Institutional uses, shall be considered signs. A banner sign projecting from a building may not exceed the wall height of the building. Maximum projection for any banner is five feet (5') with a minimum clearance of ten feet (10'). Maximum size of a banner is the lesser of twice the permitted size of a projecting sign or 120 square feet.

### 5.19.4 Clocks

For the purposes of this section, clocks are not considered a moving sign.

### 5.19.5 AG, R-1, and R-M Districts

- a. Attached signs shall consist of no more than one (1) illuminated sign per building, not more than one (1) square foot in area, mounted on the building, indicating a permitted home occupation.
- b. One non-illuminated "For Sale" or "For Rent" sign per lot, not more than eight (8) square feet in area.
- c. One illuminated or non-illuminated sign per Church, not more than thirty-two (32) square feet in area on church premises, indicating activities and services therein provided.
- d. One non-illuminated sign per building, not more than sixteen (16) square feet in area, showing names of architects, engineers, builders, or contractors, on the premises of a building being constructed; provided, that such sign shall be removed upon completion of the building.
- e. Lots within AG Districts may also have one non-illuminated sign listing products, activities, or services offered on the premises; such sign shall not be more than twenty (20) square feet in area.

### 5.19.6 GC and GI Districts

- a. Prohibited: signs advertising a use/activity located off the premises are prohibited in GC and GI Districts. All signs shall be limited to conveying names, logos, products, activities, or services affiliated with the premises.
- b. Attached Signs
  - i. Wall Signs:
    1. shall be attached to the front of the building and may not project more than twenty-four (24) inches therefrom.
    2. shall not extend above the parapet of the eave of the building.
    3. shall have a backing of non-combustible material; decorations and lettering may be of combustible material.

4. shall not extend beyond the top or ends of the wall surface on which they are placed.
  5. shall be securely attached to the building with metal anchors, bolts, or expansion screws. No wood blocks or anchorage with wood screws in connection with nails or screws shall be considered proper anchorage, except in the case of wall signs attached to buildings or structures with walls of wood. No wall sign shall be entirely supported by an unbraced parapet wall.
  6. shall not be constructed as to close off required wall openings for accessibility purposes.
- ii. Projecting Signs:
    1. The bottom of a projecting sign shall be eight (8) feet or more above grade, and a clear space shall be provided below the lowest part of any projecting sign.
    2. The maximum projection beyond the face of a building shall be five (5) feet.
    3. The minimum setback from the property line shall be five and one-half (5 ½) feet.
    4. Projections shall be incapable of swinging, rotating, flashing, blinking, or any type of movement.
    5. All projecting signs shall have a backing of non-combustible materials; decorations and lettering may be of combustible material.
  - c. Detached Signs
    - i. The overall height of any detached sign shall not exceed thirty-five (35) feet.
    - ii. When the sign is located within ten (10) feet or less of any property line, a clear space of it least eight (8) feet shall be provided and maintained below the sign.
    - iii. The maximum dimension of the sign (that part that conveys a name, logo, architectural feature, or service) may not exceed twenty-five (25) feet in length, width, or depth.
    - iv. Detached signs more than ten (10) feet tall shall have backing made of non-combustible material; decoration and lettering may be of combustible material.
    - v. A minimum of forty-eight (48) inches shall be maintained between the bottom of the sign and the ground, except for necessary vertical support.
    - vi. Setback Requirements:

<b>TOTAL AREA OF SIGN (square feet)</b>	<b>SETBACK (feet)</b>
Less than/equal to 5 sf <sup>2</sup>	5 ft
Greater than 5-15 sf <sup>2</sup>	5 ft for every ½ sf <sup>2</sup> over 5 ft of total sign area
Greater than 15-30 sf <sup>2</sup>	10 ft plus x/3, where x= the # of feet over 15 sf <sup>2</sup> of total sign area
Greater than 30-50 sf <sup>2</sup>	15 ft plus x/4, where x = the # of feet over 30 sf <sup>2</sup> of total sign area
Greater than 50 sf <sup>2</sup>	20 ft plus 5 feet for every 25 sf <sup>2</sup> over 50 sf <sup>2</sup> of total sign area

#### 5.19.7 Safety

- a. No sign shall be placed so as to obstruct or interfere with a required exit way, or as to interfere with required light and ventilation, or as to obstruct any opening in an exterior wall required for emergency services access.
- b. All signs shall be designed and constructed so as to be reasonably safe to persons and property. Signs designed and constructed in accordance following the current Uniform

Building Code shall be evidence that the design and construction is reasonably safe to persons and property.

- c. For the purpose of determining wind pressure, all signs shall be classified as either solid or open. Signs in which the projected area exposed to wind consist of it least 70% of the gross area [as determined by the overall dimensions] shall be classified as open signs.
- d. All signs shall be designed and constructed to withstand wind pressures applied to the projected exposed area, allowing for wind in any direction, in accordance with the following table:

Height to Top of Sign	Wind Pressure (pounds/square feet)	
	Open	Solid
Less than 30'	17 psf <sup>2</sup>	23psf <sup>2</sup>
30' to 45'	28 psf <sup>2</sup>	39 psf <sup>2</sup>

- e. There shall be a minimum horizontal separation of six (6) feet between any portion of any projecting or detached sign and any overhead wires.

#### 5.19.8 Permitted Sign Area

- a. Maximum permitted sign area for a premise is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties having one sign with frontage on more than one street, the total frontage shall be calculated as the longest frontage plus one-half (1/2) the length of all additional frontages. Signs in AG, R-1, and R-M Districts shall refer to 5.19.5 for maximum area, *see page 77*.

Permitted Sign Area (square feet)	GC	GI
Per lineal feet of frontage	1/2 sf <sup>2</sup>	1/2 sf <sup>2</sup>
Maximum Area	125 sf <sup>2</sup>	125 sf <sup>2</sup>
Minimum Area	15 sf <sup>2</sup>	15 sf <sup>2</sup>

## 5.20 Other Sign Provisions

### 5.20.1 Method and Standard of Measurement

- a. Maximum permitted sign area for a premises is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties having one sign with frontage on more than one street or private way, the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages.
- b. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building. The area of double-faced signs is calculated on the largest face only. The sign area for ground signs, monument signs, and architectural sign bands is calculated as the area enclosing the extreme limits of the copy only. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.
- c. The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.
- d. The setback of a sign is measured from the property line to the supporting frame, mast, pole or base of the sign.

#### 5.20.2 General Permit Procedures

- a. Any installation, modification, or expansion of any sign that is not exempt from the provisions of this Article shall be subject to the following permit procedure prior to installation.
- b. The owner of a property containing signs requiring a permit under this Zoning Ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.
- c. All applications for sign permits shall be submitted to the Village in accordance with application specifications established by the Village.
- d. Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the Village Board.
- e. Within ten (10) working days of the submission of a complete application for a sign permit, the Building Inspector shall either issue the sign permit, if the sign conforms to the provisions of this Article or reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this Article.
- f. If a sign is not constructed in accordance with an approved permit within six months of the date of approval, such permit shall lapse.
- g. A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises.

#### 5.20.3 Nonconforming Signs

All permanent signs in place and lawfully established on the effective date of this Zoning Ordinance shall be considered as legal nonconforming signs. The copy of such a sign may be changed from time to time, provided that the sign area shall not be enlarged beyond the sign area in existence on the effective date. Any nonconforming sign which presently is or becomes structurally damaged or deteriorated, or is altered by more than fifty percent (50%) of its replacement cost, shall be either removed or altered so as to comply with this Article.

#### 5.20.4 Discontinuance of Nonconforming Signs

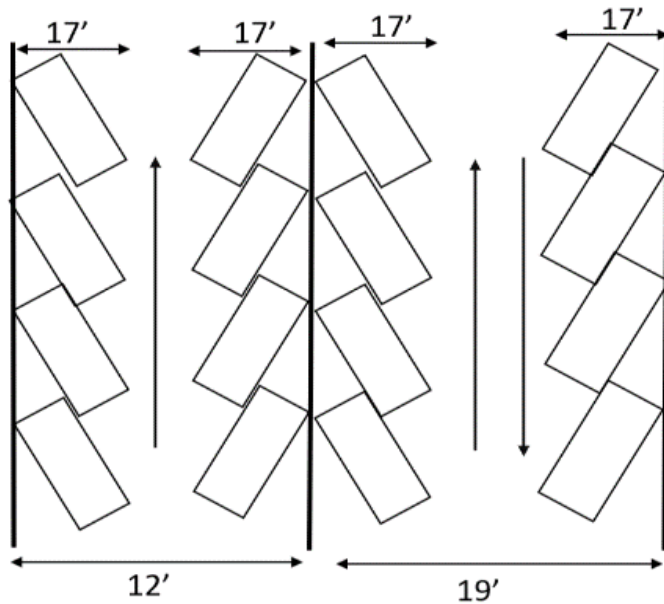
Within any zoning district, all on-premises signage must comply fully with the provisions of this Zoning Ordinance, unless otherwise provided, within one (1) year of the effective date of this Zoning Ordinance.

### 5.21 Off-street Parking, Shared Parking Requirements

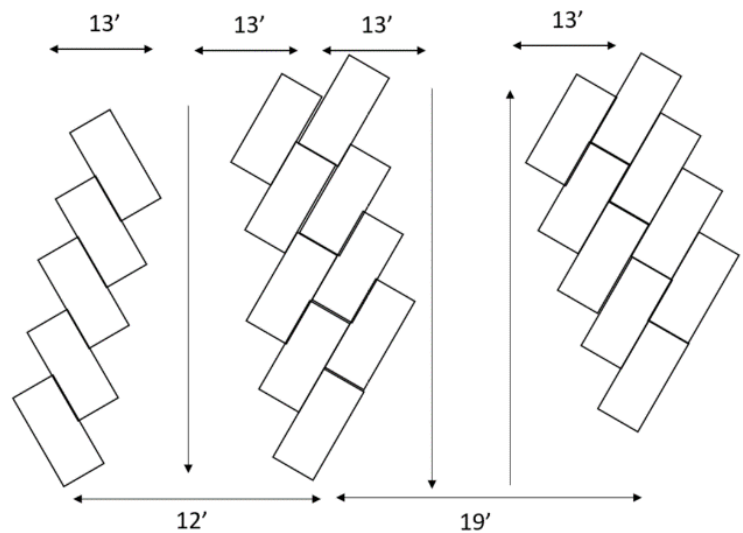
The regulations establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties. No building shall be erected, enlarged, or changed in use unless there is provided on the lot or tract of land space for the parking of automobiles or trucks in accordance with the following minimum requirements:

For the Units of Measure				
Parking Angle (Degrees)	Stall Depth		Aisle Width	
	Car-to-Wall Stalls	Interlocking Stalls	One-Way Operation	Two-Way Operation
30°	17	13	12'	19'
45°	19	16	12'	19'
60°	20	18	16'	20'
75°	20	19	22'	22'
90°	18	18	25'	25'

### 30° Car-to-Wall Stalls



### 30° Interlocking Stalls



Uses	Parking Requirements	Loading Requirements
<b>Adult entertainment establishments</b>	One space per 2 persons on licensed capacity	-
<b>Bowling Alleys</b>	Four spaces per alley	One space
<b>Churches, Synagogues, and Temples</b>	One space per 4 seats in main worship area	-
<b>Clubs including fraternal organizations</b>	One space per 500 sf gfa	-
<b>College/University</b>	One space per every two students of occupancy plus one per employee	Two per structure
<i>Commercial Uses</i>		
<b>Agricultural sales/service</b>	one space per 500 sf gfa	One space
<b>Automotive rentals/sales</b>	one space per 500 sf gfa	One space
<b>Automotive servicing</b>	Three spaces per retail stall	-
<b>Bars, Taverns, Nightclubs</b>	Parking equal to 30% of licensed capacity	Two per establishment
<b>Body Repair</b>	Four per repair stall	-
<b>Equipment rental/sales</b>	One space per 500 sf gfa	One space
<b>Campground</b>	one per camping unit	-
<b>Commercial recreation</b>	One space per 4 persons of licensed capacity	One per establishment
<b>Communication Sales/Service</b>	One space per 500 sf gfa	One space
<b>Construction sales/service</b>	One space per 500 sf gfa	One space
<b>Food Sales (limited)</b>	One space per 300 sf gfa	one space
<b>Food sales (general)</b>	One space per 200 sf gfa	two spaces
<b>General Retail sales establishments</b>	One space per 200 sf gfa	One space
<b>Laundry services</b>	One space per 200 sf gfa	-
<b>Restaurants with drive-thru</b>	One space per 150 sf gfa	One space
<b>Restaurants (general)</b>	One space per 150 sf gfa	two spaces
<b>Convalescent and nursing home services</b>	One space per 3 beds plus 1 per employee on the largest shift	Two per structure
<b>Day Care</b>	One space per employee plus 1 space or lading stall per each 10 persons of licensed capacity	-
<b>Education Facilities, Primary facilities</b>	Two spaces per classroom	Two spaces per structure
<b>Education Facilities, Secondary facilities</b>	8 spaces per classroom plus 1 space per employee on largest shift	Two spaces per structure
<b>Funeral homes and chapels</b>	8 spaces per reposeing room	2 spaces per establishment

gfa = Gross Floor Area (*see definitions*)



<b>Group care facility</b>	1 space per 4 persons of licensed capacity	2 spaces per structure
<b>Group home</b>	One space per 4 persons of licensed capacity	2 spaces per structure
<b>Guidance Services</b>	One space per 300 sf gfa	-
<b>Hospitals</b>	One and one-half spaces per 2 licensed beds; plus, .75 times the maximum employees during the largest shift	Three spaces per structure
<b>Hotels and motels</b>	One space per rental unit	One space per rental establishment
<b><i>Housing</i></b>		
<b>Single -Family</b>	2 spaces per dwelling	~
<b>Assisted-living facilities</b>	One space per dwelling unit plus 1 space per employee on the largest shift	One per structure
<b>Duplex</b>	Two spaces per dwelling	-
<b>Multi-family/Apartments</b>	One space per sleeping units - spaces to be sited in the general proximity of where the sleeping units are located, plus, one additional space per apartment (for one and two sleeping units) and 1.5 spaces per apartment (for 3 sleeping units) to accommodate guest parking. Note: this does not include garages	-
<b>Industrial</b>	.75 times the maximum number of employees during the largest shift	Two spaces per establishment
<b>Libraries</b>	One space per 500 sf gfa	One per structure
<b>Boarding Houses/ Bed and breakfasts</b>	One space per rental unit	-
<b>Medical Clinics</b>	Five spaces per staff doctor, dentist, or chiropractor	-
<b>Mobile Home Park</b>	Two per dwelling unit	-
<b>Offices and Office Buildings</b>	One space per 200 sf gfa	-
<b>Roadside stands</b>	Four spaces per establishment	-
<b>Service Oriented Establishments</b>	One space per 200 sf gfa	One space per establishment
<b>Theaters, Auditoriums, and Places of Assembly</b>	One space per four persons of licensed capacity	One space per establishment
<b>Veterinary Establishments</b>	Three spaces per staff doctor	-
<b>Wholesaling/ Distribution Operations</b>	One space per two employees on the largest shift	Two spaces per establishment

gfa = Gross Floor Area (*see definitions*).

## 5.22 Off-street Parking, Parking for Individuals with Disabilities

Each off-street parking facility shall provide the number of parking spaces set forth in the following table. Parking facilities for single-family, duplex, and mobile homes are exempt from the requirement. Spaces designated for the handicapped shall have minimum width of twelve feet (12") and provide a barrier free route to an accessible building entrance. Such space shall be designated with an upright sign exhibiting the universal symbol for accessibility by the handicapped. All such spaces shall be designed in compliance with the standards of the Americans with Disabilities Act.

NUMBER OF STALLS	NUMBER OF REQUIRED ACCESSIBLE SPACES
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of Total
1,001 AND OVER	20, plus 1 for each 100 stalls over 1,000

## 5.23 Storage or Parking for Vehicles, Boats, Campers, and Trailers

No lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the Village of Shelton shall be used for any of the following:

5.23.1 The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed; provided, however, that the following shall not constitute a violation of this subparagraph.

- a. The storage or keeping of operable off-highway farm or industrial vehicles on tracts zoned Agricultural (AG) or any Industrial (I) District and used in agricultural or industrial activity conducted on said premises.

5.23.2 The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the Shelton zoning regulations. Duty to enforce this falls to the local law enforcement officers.

## **5.24 Storage and Shipping Container Placement and Use Requirements**

No person shall place, locate, maintain, or otherwise keep a shipping container on any lot or parcel of ground within the Village of Shelton or within its extraterritorial zoning jurisdiction without first having obtained a building permit for the placement thereof.

5.24.1 Shipping containers must comply with all applicable building codes and receive all applicable permits, except that:

- a. A foundation shall not be required, but the shipping container must be securely anchored to the ground with three inch (3") screws in anchor with straps secured over the container.
- b. Ventilation shall not be required.

5.24.2 Shipping containers may be placed or installed only in the Agricultural (AG), Commercial (C), and Industrial (I) districts and shall be subject to the following restrictions:

- a. Only one shipping container shall be installed per lot or parcel of land.
- b. No shipping container shall be stacked on top of another or on top of any other object.
- c. Shipping containers must be placed or located behind the main or primary structure on the lot or parcel of ground and shall be set back from all property lines a minimum of fifty feet (50').
- d. No container shall be used to store hazardous material.
- e. No shipping container shall be used to store or keep refuse or debris in, against, on, or under the shipping container.
- f. Every shipping container shall be secured, structurally sound, stable, and in good repair.

5.24.3 Exceptions to these requirements.

- a. These restrictions shall not apply to, and no permit shall be required for, any shipping container that is placed, kept, or stored upon the premises of a business directly engaged in transporting goods and used solely in conjunction with such business and not used for storage or other purposes on the business premises.
- b. These restrictions shall not apply to, and no permit shall be required for, the placement of PODS in any zoning district for temporary use for not more than thirty (30) days out of every 365 days. Persons placing PODS upon their premises shall register such placement with the Village Clerk, noting the date upon the PODS where first placed upon the premises.

5.24.4 Shops and Detached Garages

To help ensure that shops and detached garages in all Residential districts are similar in design and harmonious with other buildings in the district, exterior siding shall consist of wood, hardboard, stucco, vinyl, or steel siding commonly used in standard residential construction. Corrugated metal siding or similar industrial type siding is not permitted.

## **5.25 Solar Panels**

No solar panel shall be constructed within the residential and commercial zoning jurisdictions of the Village of Shelton unless a permit therefor is approved and issued by the Utilities Superintendent and is constructed in conformance with the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

5.25.1 Solar panels shall conform to the required front, side and rear lot setback requirements except as provided herein:

#### 5.25.2

- a. A solar panel which is attached to an integral part of the principal building may project two feet (2') into the front yard; six feet (6') into the rear yard; and two feet (2') into the side yard.
- b. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet (6') in height and is located not less than five feet (5') from the rear lot line and not closer than one foot (1') to any existing easement as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard or front yard.

5.25.3 The physical structure and connections to existing structures shall conform to the applicable Shelton building codes.

5.25.4 The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

5.25.5 A permit fee is required. This permit fee shall be paid prior to the issuance of the building permit. The amount of the fee shall be as established in the Master Fee Schedule.

5.25.6 Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to September 18, 1985, pursuant to a valid building permit issued by the Village, may continue to be utilized so long as it is maintained in operational condition.

### 5.26 Wind Energy Systems

In any zoning district, a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following conditions:

5.26.1 The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor.

5.26.2 The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.

5.26.3 To limit climbing access to the tower, a fence six feet (6') high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than twelve feet (12') from the ground, or the tower may be mounted on a roof top.

5.26.4 The setback distances from all lot lines to any tower support base shall be determined according to the following setback table:

5.26.5 SETBACK TABLE: Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.

<u>Rotor Diameter</u>	<u>Setback Distance</u>	<u>Minimum Lot Area</u>
5 feet	100 feet	1 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
25 feet	310 feet	9.0 Acres
30 feet	340 feet	10.75 Acres
35 feet or larger	365 feet	12.25 Acres

5.26.6 Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program<sup>1</sup>. (U.S. Department of Energy—EPRI Wind Turbine Verification Program Electric Power Research Institute, 3412 Hillview Ave., Palo Alto, CA 94304)

5.26.7 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

## **5.27 Keeping of Animals**

Livestock are allowed to be kept as a Conditional Use in the AG, Agricultural District and as a Conditional Accessory Use in all other Districts. The keeping of household pets shall be permitted as an accessory use in all zoning districts in the Village of Shelton, subject to the regulations for Kennels in Article 4 of this Ordinance.

5.27.1 Minimum Requirements: The following regulations serve as a minimum requirement for the consideration of a conditional use permit for the keeping of Livestock in any zoning district in the Village of Shelton.

5.27.2 Minimum Lot Size:

5.27.2.1 Land designated as acreage for each Animal allowed shall be used exclusively for the animal(s) of the domestic livestock as proposed.

5.27.2.2 Minimum lot size for the zone in which the use is located must be met.

5.27.2.3 Minimum of one point five (1.5) acres of land, exclusive of buildings and impervious surfaces must be provided for the first two animal units which are housed or pastured on the lot.

<b>Animal Type</b>	<b>Number of animals allowed in AG per 1.5 acres</b>	<b>Number of total animals allowed in all other Districts</b>
Cattle and Other Bovine	1	1
Horses and Other Equine	2	2
Sheep, Goats, and Alpacas	3	3
Fowl *	10	10

\* Roosters are prohibited.

### 5.27.3 Setback Requirements

5.27.3.1 All buildings and structures housing animals and any building or structures used to store feed other materials used for the domestic livestock use shall be located at a minimum of thirty-five (35) feet from all property lines, or the setback required by the zoning district in which the use is located, whichever is greater.

5.27.3.2 A minimum setback of one-hundred (100) feet shall be provided between any area or structure used for the storage of animal wastes and all property lines, and existing street right-of-ways.

### 5.27.4 Fencing Requirements

5.26.4.1 All animals shall be kept within a fenced enclosure at all times when said animals are not leashed, haltered, or bridled under the direct control of the owner or an authorized agent of the owner of the animals.

5.27.5 Nuisance Effect: the presence of domestic livestock shall not constitute a nuisance with regard to noise, odor, vectors, dust, vibration, or any other definition as stated in the Village of Shelton Municipal Code 4-302-Nuisances: Specifically Defined.

5.27.6 Conversion: conversion of a domestic livestock use to a more intense, commercial livestock operation shall not be permitted. No conversion of a domestic livestock use to any other principal or accessory use shall be permitted unless such use complies with all ordinance and permitting requirements in full force and effect at the time such conversion is applied for.

5.27.7 Compliance with Other Regulations: the proposed use shall comply with all applicable State, Federal, and Local regulations including, but not limited to, nutrient management, building codes, erosion and sedimentation control, and storm water management, as well as standards for signs, lighting, and parking access.

5.27.8 All animals not specifically addressed will be allowed to apply for a Conditional Use Permit but will require approval from the Planning Commission and the Village Board of Trustees.

## **5.28 Farmers' Market**

Farmers Markets are a permitted use in all zoning districts in the Village of Shelton.

5.28.1 Additional Requirements: prior to the opening or establishment of a Farmers' Market, the following requirements must be met.

5.28.1.1 All vendors must comply with federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the market premises.

5.28.1.2 All Markets and their vendors must receive all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as applicable, on the site of the Farmers' Market during all hours of operation.

5.28.1.3 All Farmers' Markets have an established set of operating rules addressing the governance structure of the farmers' market, hours of operation, maintenance and security requirements and responsibilities; and appointment of a Market Manager.

5.28.1.4 Markets are permitted to operate in the months of April-November of each calendar year

### **5.28.2 Village Board Approval Required**

5.28.2.1 Markets must present proposed hours of operation to the Village Board of Trustees and receive approval prior to the establishment or opening of any market created after the adoption of this Zoning Ordinance.

## Article Six: Conditional Use Permits

### 6.1 General Provisions

The Village Board may, by conditional use permit after a public hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

### 6.2 Application for Conditional Use Permit

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the Village upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee noted in the Master Fee Schedule.

### 6.3 Planning Commission Public Hearing

Before any proposal for a conditional use permit is considered by the Village Board, the Planning Commission shall conduct a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village of Shelton, one (1) time at least ten (10) days prior to such hearing. Said notice must include the name and address of the applicant, the legal description of the property in question, the address of the property requiring action, and an explanation of the request requiring the public hearing. A notice shall be posted in a conspicuous place on or near the property on which the action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white background and black letters not less than one and one-half (1 ½) inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.

### 6.4 Village Board Public Hearing

Before issuance of any conditional use permit, the Board will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village of Shelton, one (1) time at least ten (10) days prior to such hearing. A notice shall be posted in a conspicuous place on or near the property on which the action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white background and black letters not less than one and one-half (1 ½) inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.



## 6.5 Decisions

A majority vote of the Board shall be necessary to grant a conditional use permit. No order of the Board granting a conditional use permit, which has not been acted upon by the applicant, shall be valid for a period longer than twelve (12) months from the date of such order. Unless the following is completed:

- 6.5.1 The Utilities Superintendent, in consultation with Village Staff, has granted an additional twelve (12) month administrative extension provided:
- a. The character (including uses, parking conditions, traffic, and others) of the area in which the use(s) were approved has not changed significantly.
  - b. The applicant has made some effort to follow through with said permit or there were circumstances that slowed the applicants' progress.
  - c. If the administrative extension of the second twelve (12) month period has lapsed without establishment of said conditionally permitted use; or, if staff deems the character of the area has changed within the initial twelve (12) month period, the applicant shall be required to reapply to both the Planning Commission and Village Board for further approval(s).

## 6.6 Standards

No conditional use permit shall be granted unless that Planning Commission or Village Board has found:

- 6.6.1 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.6.2 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.6.3 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.6.4 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.6.5 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.6.6 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.6.7 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

6.6.8 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

6.6.9 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

6.6.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

6.6.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

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## **Article Seven: Subdivision Regulations**

### **7.1 Jurisdiction and Applicability**

This chapter shall be applicable to all property within the corporate limits and one (1) mile extraterritorial jurisdiction.

### **7.2 Necessary for Building Permit Approval**

No owner of real property within the jurisdiction of the Village of Shelton may construct buildings and other structures on any lots or parts of real property, less than ten (10) acres that are not subdivided, platted, or laid out in accordance with the requirements of this regulation.

### **7.3 Interpretations, Conflict, and Severability**

These regulations shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision conflicts with any other provision, or any applicable state or federal law, the more restrictive provision shall be enforced. Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, state, or federal Ordinance or statute.

### **7.4 Approval Necessary for Acceptance of Subdivision Plats**

Approval shall require:

7.4.1 Any proprietor of any land within the corporate limits or ETJ of the Village of Shelton may lay out such land into lots, blocks, streets, avenues, alleys, and other grounds under the name of [NAME] Addition to the Village of Shelton and shall cause an accurate map or plat to be made out, designating explicitly the land so laid out and particularly describing the lots, blocks, streets, avenues, alleys, and other grounds belonging to such addition. The lots shall be designated by numbers, streets, avenues, and other grounds by names or numbers.

7.4.2 If the parcel of land involved is more than ten (10) acres, that parcel of land is exempt from this requirement to be laid out in lots, blocks, streets, avenues, alleys, and other grounds.

7.4.3 Such plat shall be submitted to the Village Clerk. A fee as determined by the Master Fee Schedule (kept at the Village Office) shall be paid to the Village Clerk at the time that the plat is filed. Such plat shall be acknowledged by the Village Superintendent for the Village of Shelton and shall contain a dedication of the streets, alleys, and public grounds therein to the use and benefit of the public and have appended a survey made by some competent surveyor with a certificate attached, certifying that he/she has accurately surveyed such addition and that the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds are well and accurately staked off and marked.

7.4.4 When such map or plat is completed, acknowledged, certified, and has been approved by the Village Board, the same shall be filed in the Office of the County Register of Deeds and Assessor.

## 7.5 Subdivision Plat Specifications

The Subdivision Plat shall be drawn to a scale of one inch (1”) to one hundred feet (100’); shall be plainly marked “Subdivision Plat” and shall include, show, or be accompanied by the following information:

- 7.5.1 A location map showing the general location of the proposed subdivision in relation to surrounding developments with a north arrow, scale, and legend.
- 7.5.2 The proposed name of the subdivision, designated as “\_\_\_\_\_ Addition to the Village of Shelton, Nebraska”, which must not be so similar to an existing subdivision as to cause confusion.
- 7.5.3 The names and addresses of the owner and subdivider, and any engineer, surveyor, or landscape architect responsible for the Preliminary Plat.
- 7.5.4 The legal description of the area being platted, boundary lines and dimensions, the location of monuments found or set, section lines, and the approximate acreage of the proposed development.
- 7.5.5 The width and location of platted streets and alleys within or adjacent to the property.
- 7.5.6 The physical features of the property, including location of water courses, ravines, bridges, culverts, present structures and other features affecting the subdivision; contours with intervals of five feet (5’) or less; the location of all existing utilities with their sizes indicated, as well as flow lines; elevations of existing sanitary and storm sewer, the outline of wooded areas (the location of important individual trees may be required), and any floodway, floodplain, and flood fringe areas.
- 7.5.7 The proposed lot layout, lot and block numbers, and approximate lot dimensions and square footage and grounds proposed to be dedicated for public use.
- 7.5.8 The location and width of proposed streets, easements, building setback lines, rights-of-way, pavement widths and type, sidewalks, alleys, location of all proposed improvements including: sanitary sewers (including proposed flow lines), water mains, storm water drainage and other features and improvements required by these regulations.
- 7.5.9 The existing and proposed zoning classification and proposed uses of land within and adjacent to the proposed subdivision.
- 7.5.10 The subdivider shall submit a complete list of the names and mailing addresses of all owners of record of all land within 300 feet of the perimeter of the property being proposed for subdivision.
- 7.5.11 Names of adjacent subdivisions together with arrangement of streets and lots.
- 7.5.12 One (1) draft copy of the Subdivision Agreement including any requests for waivers from the requirements of this Ordinance.

7.5.13 The subdivider or subdividers representative shall be in attendance at the Village Planning Commission meeting when Subdivision Plat is discussed.

7.5.14 Two (2) copies of the following, prepared by a registered professional engineer, to be delivered to the Village Engineer for review:

- a. A sanitary sewer plan.
- b. A drainage plan.
- c. A street profile plan with a statement of proposed street improvements.
- d. A water distribution plan.
- e. A traffic impact analysis.

#### **7.6 Approval Necessary for Further Subdivisions (Minor-Subdivisions)**

Further subdivision of existing lots and blocks must be reviewed by Planning Commission and approved by the Village Board in the same manner as new subdivision plats are reviewed and approved.

#### **7.7 Dedication of Public Lands**

Upon approval by the Village Board, such plats shall be equivalent to a deed in fee simple absolute to the Village of Shelton from the proprietor of all streets, avenues, alleys, public squares, parks, and commons, and of such portion of the land is therein set apart for public and municipal use.

#### **7.8 Hearings Necessary for Approval of Additions**

Prior to the approval of newly subdivided Additions of land, the Planning Commission and Village Board will hold separate public hearings on the approval of the Addition, giving notice of the time and place of such hearing, as provided in Article Nine: Amendments and Enforcement, Notice of Hearings section, of this regulation.

#### **7.9 Annexation**

All additions laid out adjoining or contiguous to the Corporate Limits may be included in the Corporate Limits of the Village of Shelton for all purposes whatsoever at such time as the addition is approved or at any time after the addition is approved.

#### **7.10 Hearings Necessary for Approval of Annexations**

Prior to the approval of the inclusion of newly subdivided additions of land into the Corporate Limits of the Village of Shelton, the Planning Commission and Village Board will hold separate public hearings on the annexation of the addition, giving notice of the time and place of such hearing, as provided in Article Nine: Amendments and Enforcement, Notice of Hearings section, of this regulation. Residents of the addition included into the Corporate Limits of the Village of Shelton shall be entitled to all the rights and privileges, and shall be subject to all the laws, Ordinances, rules, and regulations of the Village of Shelton.

#### **7.11 Vacations**

The Village of Shelton may vacate any such existing plat and addition in accordance with Nebraska Revised Statutes 19-917.

#### **7.12 Force and Effect**

No owner of real estate within the Corporate Limits or one (1) mile Extraterritorial Jurisdiction of the Village of Shelton shall be permitted to subdivide, plat, or lay out such land into blocks, lots,

streets, or other portions of the same intended to be dedicated for public use, or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto, without first having obtained the approval of the Village Board. No plat or instruments effecting the subdivision of real property shall be recorded or have any force and effect unless the same be approved by the Village Board of the Village of Shelton.

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## Article Eight: Board of Adjustments

### 8.1 Members, Terms, and Meetings

Pursuant to §19-908, Nebraska Reissue Revised Statutes of 1943 (in full): The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. After September 9, 1995, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any Ordinance adopted pursuant to sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record

### 8.2 Legislative Body of Village May Act as Board of Adjustment

Pursuant to §19-911, Nebraska Reissue Revised Statutes of 1943, the Legislative Body of a village may provide by Ordinance that it shall constitute a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections 19-901 to 19-905 may provide that as such Board of Adjustment it may exercise only the powers granted to the boards of adjustment by §19-910, provided at 6.4.

### 8.3 Appeals to Board, Record of Appeal, Hearings and Stays

As provided in Section 19-909, Reissue Revised Statutes of 1943 (in full): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice

thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

#### **8.4 Powers and Jurisdiction on Appeals**

The Board of Adjustment shall have the following powers:

8.4.1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures to hear and decide, in accordance with the provisions of this Zoning Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Zoning Ordinance to pass; and

8.4.2 To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Zoning Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Zoning Ordinance.

a. The Board of Adjustment shall authorize no such variance, unless it finds that:

- i. The strict application of the Ordinance would produce undue hardship;
- ii. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- iii. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- iv. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Zoning Ordinance.

8.4.3 In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Zoning Ordinance or to effect any variation in this Zoning Ordinance.

#### **8.5 Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Section 19-912, Reissue Revised Statutes of 1943 (in full).

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## **Article Nine: Amendments and Enforcement**

### **9.1 Amendments**

Pursuant to Section 19-905, Reissue Revised Statutes of 1943 (in full): This Zoning Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred feet therefrom, and of those directly opposite thereto extending three hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the Village Board. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen inches (18") in height and twenty-four inches (24") in width with a white or yellow background and black letters not less than one and one-half inches (1 1/2") in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than one hundred dollars (\$100). The provisions of this section in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the Village.

### **9.2 Planning Commission Review**

No amendment, supplement, change or modification of this Zoning Ordinance, including the boundaries of any zoning district, shall be made by the Village Board without first the consideration by the Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the Village Board within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only. In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 9.2.1 At the time that application for a change of zoning district or amendment to the zoning test is filed with the Planning Commission, there shall be deposited a fee as determined by the Master Fee Schedule (kept at the Village Office) to cover investigation, legal notices, or other expenses incidental to the determination of such matter.

### **9.3 Inspection by Utilities Superintendent**

The provisions of this Zoning Ordinance shall be administered and enforced by Superintendent, who shall have the power to make inspection of buildings or premises necessary to carry out individually assigned duties in the enforcement of this Zoning Ordinance.

### **9.4 Building Permits**

It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Utilities Superintendent has issued a building permit for such work.

### **9.5 Application for a Building Permit**

In applying to the Utilities Superintendent for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Utilities Superintendent for determining whether the provisions of this Zoning Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Zoning Ordinance, and other Ordinances of the Village then in force, the Utilities Superintendent shall issue a building permit for such excavation or construction. If a building permit is refused, the Utilities Superintendent shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Utilities Superintendent shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Zoning Ordinance. A building or zoning permit shall become void twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

### **9.6 Notice of Hearings**

Hearings required under the provisions of this regulation shall not be held until notice thereof has been given in compliance with the following provisions:

9.7.1 A notice shall be posted in a conspicuous place on or near the property on which the action is pending. Such notice shall not be less than eighteen inches (18") in height and twenty-four inches (24") in width with a white background and black letters not less than one and one-half inches (1 ½") in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.

9.7.2 Notice of time and place of such hearing shall be given by publication thereof in the newspaper of general circulation of the Village of Shelton at least one time ten (10) days prior to such hearing.

9.7.3 It shall not be necessary to give further notice of adjourned or continued meetings.

## **9.7 Penalties**

Pursuant to § 19-913, Reissue Revised Statutes of 1943 (in full), the owner or agent of a building or premises in or upon which a violation of any provisions of this Zoning Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for any one (1) offense. Each day of non-compliance with the terms of this Zoning Ordinance shall constitute a separate offense. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

## **9.8 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of § 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), or this Zoning Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

## **9.9 Effective Date**

This Zoning Ordinance shall take effect and be in force from and after its passage and publication according to law.

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# Article Ten: Planning and Zoning Procedures

## 10.1 Introduction

The purpose of the Planning and Zoning Procedures are to assist the Village of Shelton in the implementation of the comprehensive plan, zoning and subdivision regulations. The Village Board, Planning Commission, Utilities Superintendent, and the Board of Adjustment are responsible for the enforcement of the plan and its implementation, through utilization of the zoning and subdivision regulations.

The procedures provided in this section are to be used as a tool or means of assisting the community and local officials and commission members. It should be noted, however, the procedures and processes described in this section are models and are subject to change due to modifications, alterations, and additional requirements through legislative action and/or judicial rulings by Courts of Law. It is therefore necessary to monitor potential legislative actions and judicial rulings. Several resources are available to assist the community in this task including the Village Attorney, Village Clerk, League of Nebraska Municipalities, Nebraska Planning and Zoning Association, American Planning Association- Nebraska Chapter, Nebraska Department of Economic Development- Community and Rural Development and local state senator(s). All of these resources should be utilized, particularly to maintain up-to-date and enforceable zoning and subdivision regulations.

## 10.2 Governing Body

One of the primary governmental organizations involved in the planning and zoning process is the governing body of the municipality. For the purpose of zoning administration, the governing body for the Village of Shelton is the duly elected Village Board of Trustees.

### 10.2.1 Responsibilities

The governing body has the following responsibilities:

1. Appoint members to the Planning Commission.
2. Officially adopt the comprehensive plan, zoning, and subdivision regulations.
3. Hold public hearings prior to adoption or amendment of the comprehensive plan, zoning, and subdivision regulations.
4. Create the Board of Adjustment.
5. Consult with the Planning Commission prior to official action by governing body on the adoption or amendment of zoning and subdivision regulations.
6. Approve or disapprove subdivision plats.
7. Grant waivers to the provisions of the subdivision regulations.
8. Approve expenditure of funds for zoning administration.

## 10.3 Planning Commission

A Planning Commission is a group of local citizens, appointed by the Village Board. The Planning Commission carries out planning activities and serves in an “advisory” capacity to the Village Board. State statutes require that Planning Commissions must be consulted by the governing body on matters concerning community planning before the elected officials can take formal action. The Planning Commission must therefore develop the capabilities, which will enable it to provide sound and knowledgeable advice to those who seek it.



#### 10.3.1 State Enabling Legislation

Nebraska legislation gives any municipality the power to create by Ordinance a Planning Commission. The Planning Commission of a Village shall be designated by the Village Board (Neb. Rev. Stat. § 19-929 RRS 1997). Planning Commissions have jurisdictions over the incorporated area and can take jurisdiction over the area outside the corporate limits up to one (1) mile.

#### 10.3.2 Duties and Powers of the Planning Commission (Neb. Rev. Stat. § 19-929 RRS 1997)

To make and adopt plans for the physical development of the municipality which can include the following:

1. Comprehensive Plan
2. Capital Improvement Plan
3. Zoning Ordinance
4. Subdivision regulations
5. Building Codes

Consult and advise with public officials and agencies; public utilities, civic organizations, educational institutions, and citizens with relation to the adoption and implementation of the comprehensive plan.

To delegate authority to any such groups to conduct studies and make surveys for the commission.

Make recommendations to the Village Board on the adoption or amendment of the comprehensive plan, subdivision regulations, zoning Ordinance or capital improvements.

Make and enter into contracts with public or private bodies, with the consent of the Village Board.

May conduct or sponsor special studies or planning work for any public body or appropriate agency.

May receive grants, remuneration or reimbursement for studies conducted.

Summon witnesses, administer oaths, and compel the giving of testimony at public hearings.

Make recommendation on the approval or denial of special permits to the Village Board. (Ref. 18-1306 R.S. NE).

#### 10.3.3 Nebraska Public Meeting Statutes

Every meeting of a public body shall be open to the public in order that citizens may attend and speak at such meeting. The public meeting law is broadly interpreted and liberally construed to obtain the objectives of openness in favor of the public and provisions permitting closed sessions must be narrowly and strictly construed. (Neb.

Ref. Stat. § 84-1708 R.S.). Public meetings shall also adhere to the rules and regulations authorized by Neb. Rev. Stat. §§ 84-109 through 84-1414.

#### 10.4 Utilities Superintendent

The Utilities Superintendent is the central figure in zoning administration. All zoning and subdivision cases are coordinated through the Utilities Superintendent, who is the first and last person who has contact with developers and builders with regard to zoning and approval of subdivisions.

As the name implies, the Utilities Superintendent is not a policy maker nor does the administrator establish the zoning regulations or subdivision requirements. **If there is any question about whether or not to grant approval of a zoning permit or subdivision plat, the Utilities Superintendent will immediately begin routing the application to the appropriate governmental organization for action.**

Specific responsibilities of the Utilities Superintendent include, but are not limited to:

1. Issuance of zoning permits and certificates of occupancy/zoning compliance.
  - a. Receive application from anyone who is erecting any structure within the zoning jurisdiction.
  - b. Explain to the applicant what the requirements are in the zoning regulations or any codes adopted by the governing body.
  - c. Check with zoning regulations to see if land is properly zoned and if plans meet the legal requirements. If in conformance, then issue permits.
  - d. Make final inspection at that time to determine if structure meets all legal requirements.
  - e. Issue certificate of occupancy/zoning compliance.
2. Receive applications for variance.
  - a. Inform applicant of legal procedures.
  - b. Prepare report for Board of Adjustment that describes property and special conditions.
  - c. Transmits report to Board of Adjustment.
  - d. Keep complete records on application.
3. Receive applications for conditional use permits.
  - a. Inform applicant of zoning requirements and codes of legal process.
  - b. Advertise public hearing ten (10) days prior to Planning Commission meeting. Notify area residents as prescribed by law.
  - c. Maintain records.
4. Receive requests for rezoning.
  - a. Inform applicant of legal process.
  - b. Prepare report for Planning Commission, which describes property and neighborhood.
  - c. Advertise public hearing ten (10) days prior to Planning Commission meeting.
  - d. Keep minutes of public hearing.
  - e. Advertise public hearing before governing body at least ten (10) days prior to meeting.
  - f. Keep minutes of public hearing held by governing body.

- g. If rezoning is granted, make the appropriate change on the Official Zoning Map.
- 5. Prepare proposals for amending comprehensive plan and zoning regulations.
  - a. Upon request from Planning Commission or governing body, prepare zoning amendment to the regulations.
  - b. Present proposal to Planning Commission and governing body.
  - c. Advertise for public hearing before Planning Commission at least ten (10) days prior to hearing. Inform school board of proposed amendment at the same time.
  - d. Keep minutes of public hearing.
  - e. Advertise for public hearing before governing body.
  - f. Keep minutes of public hearing held by governing body.
  - g. If amendment is approved, make the change in all official copies of zoning regulations.
- 6. Receive application for subdivision of property(s).
  - a. Receive application from anyone who is subdividing any parcel of land into two or more parcels.
  - b. Explain to applicant what the requirements are in the subdivision regulations or related regulations affecting the subdivision of land in the political jurisdiction.
  - c. Make arrangements for conferences between the subdivider and the Planning Commission or governing body.
  - d. Receive and review preplat sketch, preliminary plat and final plat.
  - e. Submit comments and plat review remarks to the Planning Commission or governing body where appropriate.
  - f. Inform subdivider of plat approval or denial by governing body.
  - g. Keep records of all subdivisions and incorporate appropriate changes to the official base map for the political jurisdiction resulting from approval of subdivision.
- 7. Receive application for waiver to the provisions of the subdivision regulations.
  - a. Receive application for waiver from subdivider.
  - b. Inform subdivider of the required procedures.
  - c. Prepare report for the Planning Commission describing the waiver and application information relating to the waiver.
  - d. Transmit recommendations of the Planning Commission to the governing body with appropriate comments regarding approval or denial of the request for a waiver.
  - e. Notify subdivider of action by the Planning Commission and the governing body.
  - f. Keep records of all applications for waiver.
- 8. Prepare proposals for amending the subdivision regulations.
  - a. Upon request from Planning Commission or governing body, prepare amendment to the regulations.
  - b. Present proposal to Planning Commission and governing body.

- c. Advertise for public hearing before Planning Commission at least ten (10) days prior to hearing. Inform school board of proposed amendment at the same time.
- d. Keep minutes of public hearing.
- e. Advertise for public hearing before governing body at least ten (10) days prior to hearing.
- f. Keep minutes of public hearing held by governing body.
- g. If amendment is approved, make changes in all official copies of the subdivision regulations.

As the above mentioned duties indicate, the Utilities Superintendent equally serves both the citizens of the community who apply for zoning permits or submit plats and the local governing body.

## **10.5 Board of Adjustment**

The Board of Adjustment has important duties. Its functions, partly administrative and partly judicial, are defined and limited by state enabling legislation and by provisions of the local zoning Ordinance. This quasi-judicial body's powers include hearing and deciding appeals, map interpretations, and granting variances from the zoning Ordinance. Under Nebraska Statutes, the zoning Board of Adjustment is not a policymaking body, not is it intended to be. The Board of Adjustment is the body that provides flexibility in the administration of the zoning regulation.

### **10.5.1 State Enabling Legislation**

Under Chapter 19, Section 19-907 of the Nebraska State Statutes, the local legislative body creates boards of adjustment by Ordinance. Statutory references for boards of adjustment are §§ 19-907 through 19-912.

#### **10.5.1 Meetings**

1. Meetings of the Board of Adjustment shall be held at such times as the governing body may designate or at the call of the chairperson.
2. All meetings of the Board of Adjustment shall be open to the public and adhere to the provisions of the state public meetings law.
3. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
4. The Board of Adjustment must hold a public hearing before deciding upon applications for variances.
5. The concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any municipal official, or to decide in favor of the applicant to effect any variance from the zoning Ordinance.

#### **10.5.2 Duties and Powers**

The Board of Adjustment has the following powers as authorized by state legislation and local Ordinance.

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a municipal official based on the zoning Ordinance.

2. To hear and decide, in accordance with the provisions of the zoning Ordinance, request for interpretation of any map.
3. To hear and decide applications for variance from the zoning Ordinance.
4. Summon witnesses, administer oaths and compel the giving of testimony at public hearings.

## **10.6 Procedure for Zoning Permit Issuance**

### **10.6.1 Purpose**

A zoning permit shall be obtained from the Utilities Superintendent prior to construction of any structure to ensure the protection of owner, municipality, and adjacent property owners.

### **10.6.2 Procedure**

The following steps should be taken to insure proper compliance with the zoning regulations.

1. The applicant shall obtain a zoning permit from the Utilities Superintendent by contributing the necessary information and meeting all requirements.
2. The Utilities Superintendent shall open a file for applicant's zoning permit.
3. The Utilities Superintendent may issue a zoning permit providing:
  - a. All zoning requirements are met.
  - b. Permit fee is paid.
  - c. Evidence of available utilities.
4. The zoning permit may be revoked at any time during construction and utility service denied when applicant is in violation of zoning requirements.
5. A certificate of zoning compliance shall be issued upon verification that all items are in conformance.

If at Step Three, the Utilities Superintendent determines that he or she must deny granting the zoning permit, the Utilities Superintendent should advise the applicant of the following options:

1. Revise plans to conform to zoning regulations and resubmit zoning permit application.
2. Apply to Utilities Superintendent for a variance approved by Board of Zoning Adjustment.
3. Apply to Utilities Superintendent for granting of a conditional use permit approved by the governing body.
4. Apply to Utilities Superintendent for an interpretation of the zoning regulations by the Board of Zoning Adjustment.
5. Apply to Utilities Superintendent for a change of zone or amendment to zoning regulations granted by the governing body.
6. Applicant may wish to discontinue project.

### **10.6.3 Criteria for Granting Variances**

The criteria and conditions that must exist for granting a variance are identified by State Statute and in the Shelton Zoning Ordinance. The variance is intended as a device for adjustment where the Ordinance creates unnecessary hardship in unusual cases, to give affected property owners rights as nearly equal as possible to those of others in the same district.

A heavy caseload on variances may indicate that the Ordinance is, or one of its specific regulations is not appropriate, the Board of Adjustment is malfunctioning, or both. The need for variances should be minor, and variances should be granted sparingly.

**Under no circumstances can the Board of Adjustment grant a variance to permit a use not generally allowed or by conditional use permit allowed in the zoning district.**

A variance is granted for the property and not for the owner of the property. The variance is thus in perpetual effect and remains with the property and whatever structure that may be constructed in the future.

The following are general guidelines that can be used by the Board of Adjustment in deciding upon applications for variances. These general guidelines are to be used in conjunction with the criteria and conditions specified in the zoning Ordinance.

1. A variance is not the appropriate remedy for a general condition. If this is the case, a change in the zoning regulation would be the appropriate action.
2. Self-inflicted hardships are not grounds for a variance. If the request for the variance is based upon some action of the applicant such as the selling of a portion of a lot which does not comply to the existing district regulations as opposed to a case where the area or width of a lot was reduced because land was taken for street widening.
3. Personal hardship is not grounds for a variance. The hardship must relate to the physical character of the property.
4. Economic hardship in itself is not grounds for a variance. It may be considered as an element, but there must be other compelling considerations. In general, the law guarantees that police-power measures will not prevent a property owner from obtaining some reasonable return on his/her land, however that may be defined... one of the most common statements in variance law is that purely financial hardship... i.e., restriction to a less profitable use—is not sufficient to justify a variance. The granting of such variance must be based upon a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

## **10.7 Public Hearing Procedures for Zoning Change (Amendment)**

### **10.7.1 Purpose**

A public hearing shall be held by the Planning Commission for adoption of Zoning Regulations or Amendments to the Zoning Regulations.

### **10.7.2 Procedure**

A public hearing held for the purposes of informing citizens of a suggested change in zoning regulations should encompass the following elements:

1. The secretary of the Planning Commission shall cause a notice of public hearing to be published at least ten (10) days prior to the date set for the hearing.
2. The notice of public hearing shall fix the time and place and describe in general terms, the regulations and zoning districts proposed and a brief statement regarding the purpose thereof.
3. The chair of the Planning Commission shall call the hearing to order at the prescribed time and identify the purpose of said hearing. (It is acceptable to read the Notice of Public Hearing.)

- 4. The chair or other members of the Planning Commission shall describe the order of the hearing and present a complete but brief summary of the proposed zoning change. The hearing should then be open to the discussion by attending citizens. A record of proceedings of the hearing should be maintained by the secretary. The hearing may be adjourned from time to time upon discretion of the chair.
- 5. Upon conclusion of the hearing, the Planning Commission shall prepare and adopt its recommendations in the form of a proposed zoning amendment. This may be done immediately following adjournment of the hearing or at the next meeting of the commission.
- 6. A copy of the proposed amendment shall be submitted to the Governing Body with a record of the hearing proceedings.

**ADOPTED AND APPROVED by the Governing Body of Shelton, Nebraska**

This \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
**William Roe, Chairman**

Seal

**ATTEST:** \_\_\_\_\_  
**Bonnie Doremus, Village Clerk**