

## UNIFIED DEVELOPMENT CODE

(Height Exceptions, Stormwater Reviews, Development Approvals, Finished Grade)

### AN ORDINANCE TO AMEND SECTIONS 5.18, 5.22, 5.29 and 5.37 OF CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 5.18.4 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

#### **5.18.4 Exceptions to Height Limits**

##### **A. Certain Architectural and Mechanical Features**

~~The height limits of this chapter shall apply to spires, belfries, cupolas, penthouses, domes, water towers, observation towers, power transmission lines and towers, roof-mounted dish antennas, masts and aerials, flagpoles, chimneys, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, and other similar mechanical appurtenances. However, if such facilities are proposed specifically to house and disguise wireless communications facilities, their height limits shall be those in Section 5.16.5D. The applicable height limit of the zoning district in which such a facility is proposed may be modified by the Zoning Board of Appeals.~~

The height limits of this chapter may be excepted as follows:

1. Enclosures for elevator, escalator, or stairwells that are not included in *floor area* or *FAR* of a *building* in Mixed-Use and Nonresidential and Special Purpose Zoning Districts may extend up to 12 feet above the height limit of the zoning district in which the *building* is located.
2. *Building-mounted SES or Personal Scale SES* may extend up to 12 feet above the height limit of the district in which it is located.
- 4.3. *Wireless communication antennas* attached to a *structure* other than a *wireless communication tower* may exceed the height limit of the zoning district in which it is located. (See Section 5.16.5.D for *wireless communication antennas* attached to a *wireless communication tower*.)

##### ~~**B. Building-Mounted Solar Energy Systems (SES)**~~

~~Building-mounted SES may extend up to 12 feet above the surface of a flat roof when determining the height of the building.~~

##### ~~**C. Wireless Communications Antennas**~~

~~Wireless communications antennas are not subject to the height limits of this chapter, except when attached to wireless communications towers. Wireless communications towers and their associated facilities are subject to the height limits found in Section 5.16.5D.~~

### **DB. Sustainable and Affordable Housing Developments**

The height limits of this chapter may be increased by up to 30% when the following conditions are met:

1. The development has an affordable housing component or a sustainability component.
2. For any portion of the site that is within 300 feet of any Residential Zoning District, the side required setback and rear required setback within that buffer shall be increased by the amount of the increased height limitation for the portion of the buildings(s) above the normal height limit. This requirement is intended to result in buildings(s) that comply with the normal required setbacks and have a step back above the normal height limit or buildings(s) that comply with the increased required setbacks without step backs.

### **EC. Elevating Buildings in the Floodplain**

Buildings in the floodplain may be elevated to bring the lowest floor above the floodplain and may exceed the height limit by the depth of the flood protection elevation.

Section 2. That Section 5.22 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

## **5.22 Stormwater Management and Soil Erosion**

No Person shall conduct activity for which a permit under this Section 5.22 or related Section 5.29.3 is required without first having obtained the required permit. After the permit has been obtained, no Person shall conduct any activity in violation of any condition of that permit, or without having the permit and plans on *site*. Throughout this section, the Washtenaw County Water Resources Commissioner, and the Commissioner's office, are referred to as "WCWRC".

### **5.22.1 Stormwater Management**

#### **A. Purpose**

1. The City Council recognizes and is concerned that excessive quantities of soil are eroding from certain areas that are undergoing *development* for non-agricultural uses such as housing developments, industrial areas, recreational uses, and roads. This *erosion* makes necessary costly repairs to gullies, washed out Fills, roads, and embankments. The resulting *sediment* clogs storm

sewers and road ditches, muddies *watercourses* and silts-in lakes and reservoirs, and is considered a major water pollutant, which degrades the natural environment within its jurisdiction and is costly to remedy.

2. Water quality and quantity within the water resources of the City is a public concern. As the City is developed, natural vegetation is removed and replaced with *impervious surfaces*. As a result the hydrology of *watercourses*, ponds and *wetlands* is changed. These changes in quantity, speed, and timing of water runoff transform Ann Arbor's *watercourses*. As the volume and speed of water increases, so does the erosive action of runoff on hillsides, stream banks and bottoms. As more soils are transported down waterways and as more damage occurs to stream banks and bottoms, natural systems are destroyed or diminished throughout the watershed. Urban activity also contaminates the land's surface. Contaminants are carried with runoff into all aquatic habitats, where they poison wildlife and contribute to the decline of aquatic resources. For people, the combination of these effects diminishes the quality of drinking water, inhibits healthy fisheries, reduces recreation and lessens scenic beauty. The City recognizes the relationship between land use and water quality; and by doing so, desires to control non-point source water pollution. Strategies to control stormwater quantity are different from the strategies to improve water quality. This section intends to improve the effectiveness of *stormwater management systems*, bring greater effort to control the sources of runoff, and to improve water quality.
3. The purpose of this Section 5.22 is to control soil *erosion* and the resulting *sediment*; and to control the impact on water quality and quantity resulting from *development* and *impervious surfaces* within the City by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community. Compliance with Part 91 of Act No. 451 of the Public Acts of 1994, as amended, (MCL 324.9101 to 324.9123) and the rules promulgated under this part of the Michigan Compiled Laws, is fully intended.

### **5.22.2 Stormwater Management Compliance**

#### **B. Applicability**

A *stormwater management system* meeting the criteria of Section 5.22.3 is required for:

1. Any form of construction or removal or disturbance of any *natural feature* that requires approval for any site plan, final preliminary plat, or PUD site plan.

2. When a *Grading Permit* is required but not a site plan, final preliminary plat, or PUD site plan, except *Grading Permits* solely for vegetation *clearing*, *building* demolition, removal of *impervious surfaces*, or other activities approved by the PSA Administrator.

**5.22.3 B. Stormwater Management Systems Review**

**A. Review Responsibility**

**1. WCWRC**

~~For sites within the jurisdiction of the WCWRC; or sites with existing or proposed stormwater management systems under multiple ownership or for multiple parcels, including but not limited to site condominiums; or residential developments containing greater than four dwelling units within two or more detached structures; or sites with stormwater management systems serving more than one parcel shall be reviewed by the WCWRC office.~~

**2. City of Ann Arbor**

Any site that is not in the review responsibility of the WCWRC per paragraph 1 above shall be reviewed by the City of Ann Arbor, which can delegate responsibility to the WCWRC if determined by the PSA Administrator to have complicated or extenuating circumstances such as, but not limited to, sites with existing or proposed stormwater management systems under multiple ownership or maintenance responsibilities, or sites with stormwater management systems serving more than one lot or parcel.

**C. Requirements**

A stormwater management system shall be provided based on the requirements provided in Table 5.22-1.

Table 5.22-1: Stormwater management requirements					
Site Type	Review Responsibility	Site Area	Impervious Area Impact	Stormwater Management Requirement	Exceptions or Alternatives
Single And Two-Family Residential	City	Any size	Adding 200 sq. ft. or more of Impervious Area	First flush for the total net increase in <i>impervious surface</i> , and all downspouts directed to vegetated areas or approved point in compliance with Chapter 100 of City Code "Drainage Nuisances and Complaints section.	Not required for new homes in a site planned development with compliant development-wide system.

**Table 5.22-1: Stormwater management requirements**

Site Type	Review Responsibility	Site Area	Impervious Area Impact	Stormwater Management Requirement	Exceptions or Alternatives
All Other Types	WCWRC	Any size	Not applicable	As required by the Rules of the WCWRC.	As provided by the Rules of the WCWRC.
	City	Over 1 acre (>43,560 sq. ft.)	Not applicable	As required by the Rules of the WCWRC.	See Section 5.22.3E
		1 acre or less (≤43,560 sq. ft.)	No net increase in Impervious Area	Not required with Site Plan for Planning Manager, as required by the Rules of WCWRC for Site Plans for Planning Commission or City Council.	See Section 5.22.3E
			Any increase in Impervious Area	As required by the Rules of the WCWRC.	See Section 5.22.3E

**D. Standards and Procedures of City of Ann Arbor Review Responsibility**

Applicable Sites within the City of Ann Arbor review ~~responsibility~~ shall provide a *stormwater management system* meeting the design criteria stated in the Rules of the WCWRC as provided in Table 5.22-2 unless an alternative as provided in paragraph E below is approved.

**Table 5.22-2: Stormwater management thresholds (~~city of ann arbor review responsibility~~)**

Impervious Area	Standard
Less than 10,000 sq. ft.	Retention/infiltration of first flush storm event.
10,000 sq. ft. or more and less than 15,000 sq. ft.	Retention/infiltration only of first flush and detention only of bankfull events.

**Table 5.22-2: Stormwater management thresholds (city-of-ann-arbor-review responsibility)**

Impervious Area	Standard
15,000 sq. ft and greater	Retention/infiltration of the first flush, and detention of bankfull and 100-year storm event. Detention facilities for the 100-year storm event shall include a sediment forebay.

1. On a *site* that requires the installation of a *stormwater management system*, the facility shall be installed and stabilized prior to the issuance of building permits. The PSA Administrator may deem it necessary to modify the timing of installation of the facility when conditions, such as a facility that is integral to the *structure* of a new *building*, prevent installation prior to building permits. As-built verification from a *Professional Engineer* shall be submitted to the PSA Administrator for approval prior to issuance of any certificate of occupancy. The as-built verification shall include: elevations and volumes, outlet sizes and elevations, stabilization information, and signature and seal of the *Professional Engineer*.
2. Existing *wetlands* shall not be modified for the purposes of *stormwater management systems* unless it is determined that the existing *wetland* is not regulated by Sections 5.23 and 5.29.4. Where modifications to *wetland* areas are allowed, the existing storage shall be maintained and shall not count toward meeting the requirements of this section.
3. When residential *lots* or units are proposed to be created, the runoff coefficients shall take into account the future *impervious surfaces* of these building *sites* within the stormwater management calculations.
4. *Stormwater management systems* facilities shall be designed so that any discharge of stormwater from the facility, which does not empty directly into a drain, shall be converted to sheet flow over the ground through the use of an energy dissipater, in a manner which will preclude *erosion*, or other approved method as determined by the PSA Administrator.
5. Prior to the issuance of a *Grading Permit*, the *development* of the *stormwater management system* shall provide the City with an agreement, satisfactory to the City Attorney, that if maintenance is not performed to the reasonable satisfaction of the PSA Administrator, the City may, after posting reasonable notice, on the *site*, perform the maintenance activities and charge all costs to the benefited properties. If the costs remain unpaid for 60 days, the

City may assess those costs to the benefited properties as a single lot assessment under City Code Section 1:292.

## **E. Approval**

### **1. When Reviewed by WCWRC ~~Review Responsibility~~**

*Stormwater management systems* reviewed by the WCWRC shall receive preliminary plan approval from the WCWRC prior to site plan, final preliminary plat, or PUD site plan approval by the City, and a permit or letter of final plan approval from the WCWRC shall be obtained prior to issuance of a *Grading Permit* by the City.

### **2. When Reviewed by City of Ann Arbor ~~Review Responsibility~~**

*Stormwater management systems* reviewed by the City of Ann Arbor shall be reviewed and receive approval from the PSA Administrator or their designee.

## **F. Alternatives**

When *site* constraints make it infeasible to meet the requirements provided in Table 5.22-2, the PSA Administrator may approve an alternative standard if each of the following conditions are met:

1. Control of the first flush storm event has been provided.
2. A determination is provided by a *Professional Engineer* that *stormwater management systems* will be provided on-site to the maximum extent feasible and that it is not feasible to provide any additional detention volume due to *site* constraints including but not limited to groundwater conflicts, soil contamination, existing *building(s)* or protection of *natural features*.
3. The proposed method of stormwater management is consistent with the intent of this section and the goals of the Rules of the WCWRC, as determined by the PSA Administrator.
4. The proposed method of stormwater management and reason for not meeting the full detention volume is documented on a *Grading Permit*, site plan, final preliminary plat, or PUD site plan.

## **5.22.2 Soil Erosion**

### **5.22.4 A. Grading Operation Responsibility**

Any Person engaged in *grading* operations and/or the permittee shall be responsible for:

1. Installing *temporary soil erosion and sedimentation control measures* before any *earth change* activity, and maintaining the measures on a daily basis.
2. Preventing damage to any public utilities or the interruption of utility services within the limits of *grading* and along any routes of travel of the equipment.

3. Preventing damage to adjacent property. No Person shall *grade* land so close to the *lot line* as to endanger any adjoining public Sidewalk, Alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.
4. Carrying out the proposed work in accordance with the approved plans, and sequence of construction, and in compliance with all the requirements of the permit and this Section 5.22 .
5. Immediately removing all soil, miscellaneous *debris* or other material applied, dumped, tracked, or otherwise deposited on Streets, Highways, Sidewalks, *stormwater management systems*, or public thoroughfares during transit to and from the construction, when such spillage constitutes a public nuisance or *hazard*. The construction of a *haul road* or other approved vehicle cleaning method may be required by the City Planning Manager PSA Administrator to prevent the spread of *debris*.
6. Designing, constructing, and completing *earth changes* in such a manner which shall limit the exposed area of any disturbed land for the shortest possible period of time, within the approved construction sequence.
7. Designing, installing and maintaining *soil erosion and sedimentation control measures* to remove *sediment* caused by *accelerated soil erosion* from runoff water before it leaves the *site* of the *earth change*.
8. Designing and constructing temporary or permanent measures for the conveyance of water around, through or from the *earth change* area to limit the water flow to a *non-erosive velocity*.
9. Grading and stabilizing earth change areas with permanent soil erosion and sedimentation control measures, and removing temporary soil erosion and sedimentation control measures.
10. Installing *permanent soil erosion and sedimentation control measures* for all slopes, channels, ditches or any disturbed land area within five calendar days after final *grading* or the final *earth change* has been completed. All *temporary soil erosion and sedimentation control measures* shall be maintained until *permanent soil erosion and sedimentation control measures* are implemented and the disturbed land areas are *stabilized* and approved.
11. Making the approved plans and permit available for inspection at all times at the *site* of the *earth change*.
12. Conducting *earth changes* in such a manner that will effectively reduce *accelerated soil erosion* and resulting sedimentation.



**5.22.5B. Maintenance Standards**

Persons carrying out *soil erosion and sediment control measures* under this chapter, and all subsequent owners of property upon which such measures have been taken, shall maintain all permanent anti-*erosion* devices, retaining walls, *structures*, plantings and other protective devices.

**5.22.6C. Liability**

Neither the issuance of permits, under the provisions of this chapter, nor the compliance with the provisions of this chapter, or with any condition imposed by the ~~Planning Manager~~City under this chapter, shall relieve any Person from the responsibility for damage to any persons or property otherwise imposed by law, nor impose any liability upon the City for damages to persons or property.

Section 3. That Table 5.29-1 in Section 5.29.6 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

Table 5.29-1: Required approvals for development activities by land use				
Required approval is determined by the land use and development activity. See bottom for key.				
Development Activity	Land Use			
	Residential 1-4 Dwelling Units	Residential 5 or 6 Dwelling Units	Residential 7 or more Dwelling Units	All Other Uses [2]
<b>Zoning/Special Exception Use actions</b>				
Any site plan, area plan, or conceptual PUD plan accompanying a rezoning petition	C	C	C	C
Any site plan accompanying a special exception use petition				P
<b>Existing Building Work/Modifications</b>				
<b>Existing Buildings</b>				
Additions more than 300 square feet up to 10,000 square feet and less than 10% of the existing <i>floor area</i>		M	M	M
Additions more than 10,000 square feet, or greater than 10% of the existing <i>floor area</i>		M	P	P
<del>Interior construction that results in an increased number of dwelling units</del>		<del>M</del>	<del>P</del>	<del>P</del>
<b>New Buildings (Principal) and Structures</b>				
New residential <i>building(s)</i> in Residential Zoning Districts		M	P	

**Table 5.29-1: Required approvals for development activities by land use**

Required approval is determined by the land use and development activity. See bottom for key.

Development Activity	Land Use			
	Residential 1-4 Dwelling Units	Residential 5 or 6 Dwelling Units	Residential 7 or more Dwelling Units	All Other Uses [2]
New residential <i>building(s)</i> in Mixed-Use or Special Purpose Zoning Districts	P	P	P	
New mixed-use or nonresidential <i>building(s)</i>				P
<i>Wireless communications tower</i> construction or replacement				P
<b>Accessory Buildings and Structures</b>				
Any <i>accessory building, structure, canopy</i> , equipment or similar <i>structure</i> great than 300 square feet not specifically listed below (2)		M	M	P
Deck, patio, plaza, or combinations of these, up to 1,000 square feet		M	M	M
Deck, patio, plaza, or combinations of these, greater than 1,000 square feet		M	P	P
<i>Outdoor storage area</i>				P
<b>Other Site Improvements</b>				
<b>Sidewalks</b>				
Removal of installed sidewalks		M	P	P
<b>Parking Spaces and Parking Lots</b>				
Rearrangement or reconfiguration of <i>parking stalls</i> and aisles within the existing limits of <i>vehicular use area</i>		M	M	M
Paving an existing <i>parking lot</i> , increasing the area in square feet of <i>vehicular use area</i>		M	P	P
Construction of new, or relocation of existing, access road or <i>driveway</i>		M	P	P
Construction of new private street		M	P	P
<b>Natural Features</b>				
Removal or disturbance of any <i>natural feature</i>		M	M	M
<b>Site Plan Revisions, Extensions, Administrative Actions</b>				
Landscape Plan: Change of location or type of landscape or screening materials. Where more landscaping area or materials are shown than required by Section 5.20, these elements may be		M	M	M

**Table 5.29-1: Required approvals for development activities by land use**

**Required approval is determined by the land use and development activity. See bottom for key.**

Development Activity	Land Use			
	Residential 1-4 Dwelling Units	Residential 5 or 6 Dwelling Units	Residential 7 or more Dwelling Units	All Other Uses [2]
reduced by no more than 20% of the additional amount originally approved.				
<i>Natural Features</i> Mitigation: Change in species or placement of plant materials included in an approved <i>natural features</i> mitigation plan, as long as there is no net reduction in plant material or area and the change meets the intent of the approved <i>natural features</i> mitigation plan		M	M	M
<i>Natural Features</i> Protection: Substitution of areas to be preserved on a <i>natural features</i> protection plan, as long as there is no net loss of preserved area, the cumulative area to be changed does not exceed 250 square feet of the original preserved area on the approved protection plan		M	M	M
<i>Natural Features</i> Mitigation or Protection: Any other modification(s) to an approved <i>natural features</i> mitigation plan or protection plan not listed in this table.		M	P	P
Phase Lines: Adding or changing phase lines on a site plan		M	M	M
Extension: Extending a valid site plan approval for periods up to two years, if the approval is requested prior to the expiration of the site plan and if the plan is in compliance with current standards and regulations.		M	M	M
Revisions: Moving a <i>building</i> placement up to ten feet (before or during construction)		M	M	M
Revisions: Moving a <i>building</i> placement more than ten feet (before or during construction)		M	P	P
Revisions: Relocation or addition of up to 50% of the approved <i>stormwater management system</i>		M	M	M
Revisions: Relocation or addition of 50% or more of the approved <i>stormwater management system</i>		M	P	P
Revisions: Addition or reconfiguration of sidewalks (before or during construction)		M	M	M

**Key:**

M = Site Plan for Planning Manager approval required

P = Site Plan for Planning Commission approval required

**Table 5.29-1: Required approvals for development activities by land use**

Required approval is determined by the land use and development activity. See bottom for key.

Development Activity	Land Use			
	Residential 1-4 Dwelling Units	Residential 5 or 6 Dwelling Units	Residential 7 or more Dwelling Units	All Other Uses [2]

C = Site Plan for City Council approval required  
 Blank = Site Plan approval not required (all other development standards, requirements and procedures still applicable)[1]

**Footnotes:**

[1] No site plan required; however, this does not exempt the *development* activity from any required permits or corresponding code requirements.

[2] All Other Uses: e.g. Group Housing, Mixed-Use, Nonresidential, Special Purpose

[3] See Section 5.16.6N for requirements for *solar energy systems* as *accessory structures*.

Section 4. That the definition of Finished Grade in Section 5.37.2.F be amended as follows:

**Finished Grade**

The level of the ground adjacent to ~~the a structure if the ground is level~~ for purposes of regulating height. ~~If the ground is not level, the finished grade shall be determined by averaging the elevation of the ground for each side of the structure using the highest and lowest point of each side, as measured five feet from the exterior walls of the structure.~~ This level shall be determined by: Step 1) establishing an average level of the ground for each side of a structure using the highest and lowest point of each side, as measured six feet from the exterior walls of the structure; then, Step 2) establishing the finished grade by averaging together the levels calculated in Step 1.

Section 5. That the definition of Rules of the WCWRC in Section 5.37.2.R be amended as follows:

**Rules of the WCWRC**

The Rules of the Washtenaw County Water Resources Commissioner, Procedures and Design Criteria for Stormwater Management Systems, ~~dated May 15, 2000~~ October 17, 2016 (Section III revised 1/1/2023).

Section 6. This ordinance shall take effect and be in force on and after ten days from legal publication.