

## **PLANNING AND DEVELOPMENT SERVICES STAFF REPORT**

**For Planning Commission Meeting of May 5, 2020**

**SUBJECT: Amendments to Chapter 55 (Unified Development Code) to Chapter 55, Unified Development Code: Section 5.18.4 Exceptions to Height Limits; Section 5.16.6N Solar Energy Systems.**

### **PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 Unified Development Code, Section 5.18.4 Exceptions to Height Limits to allow solar panels to exceed height limit; Section 5.16.6N Solar Energy Systems to waive site plan requirements for construction of solar carports subject to standards for Accessory Structures.

#### **STAFF RECOMMENDATION:**

Staff recommends that the amendments to the Unified Development Code be **approved**.

#### **SUMMARY:**

These amendments were originally scheduled for the March 17<sup>th</sup> Planning Commission Meeting which was cancelled due to Covid-19 pandemic response measures.

The Unified Development Code (UDC) currently designates a freestanding solar panel installation as an accessory structure. As such, the total size is limited to 240 square feet without the requirement for a site plan. Recently, a site has proposed a larger structure for covering existing parking while providing a larger surface for solar collection. Under current code, this proposal would trigger a full site plan review for the site making the installation of the solar structure possible but cost prohibitive. Staff anticipates other possible sites in the City to have similar considerations making larger ground-mounted solar installations challenging to install.

The UDC currently counts rooftop solar panels toward meeting the height maximum height requirement. This discourages the installation of solar panels on flat roofs since they would protrude beyond the flat top of the roof.

Both amendments were presented to the January 28, 2020 Ordinance Revisions Committee meeting of the Planning Commission. Feedback and additional comments were incorporated into the revised draft as attached.

#### **PROPOSED AMENDMENTS:**

**1. Exceptions to Height Limits to allow solar panels to exceed height limit**

#### 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.

##### B. Rooftop Solar Energy Systems

Rooftop Solar Energy Systems may extend up to 12 feet beyond 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.

#### 2. Solar Energy Systems to waive site plan requirements for construction of solar carports subject to standards for Accessory Structures

##### 5.16.6 N. Solar Energy System

In Multiple-Family, Mixed Use, or Nonresidential and Special Purpose Zoning Districts, a SES is permitted subject to the requirements listed below and Section 5.16.6A. Accessory Uses and Structures, except when the Principal Use is Single-Family Dwelling the standards provided in Section 5.16.6O shall apply.

A site plan is not required if it complies with the standards below:

The SES shall result in no increase of impervious surface to the overall site.

- a. No required landscaping or landmark trees shall be removed or affected by the installation of the SES.
- b. No removal of required parking.
- c. A SES shall have a maximum height of 21 feet.
- d. A SES shall have a minimum of 90% of the surface covered by active solar collectors.
  - a. Applicant shall submit documentation demonstrating that the location and dimensions of the SES shall not interfere

with vehicular and non-motorized safety, circulation and visibility

- e. Total surface area of all SES structures shall not exceed 10,000 square feet.

Installation, Use, and Maintenance

- a. The SES shall be installed, maintained, and used only in accordance with the manufacturer's specifications.
- b. The SES and its installation and use shall comply with the Michigan Building Code, the Michigan Electrical Code and any other applicable State codes, and installation of a SES shall not commence until all necessary permits have been issued.

Prepared by Matt Kowalski  
Reviewed by Brett Lenart  
3-10-20

Attachment: Ordinance to Amend Chapter 55 Unified Development Code

c: City Attorney's Office

## ~~5.1.1~~ 5.16.6 Accessory Uses and Structures

### A. All Accessory Uses and Structures

#### 1. General

No Accessory Building shall be used prior to the Principal Building or Principal Use, except as a construction facility for a Principal Building. Such construction facility shall not be used for residential purposes. This exception is a temporary Accessory Building which shall lapse 30 days after completion of the Principal Building or Buildings.

#### 2. In Residential Districts and P District

Accessory Buildings in these districts shall conform to the following regulations, except as may otherwise be provided in this chapter:

- a. Accessory Buildings shall not exceed 21 feet in height, except in the R-6 District Accessory Buildings shall not exceed 15 feet.
- b. Accessory Buildings shall not be erected in any Required Front Setback Area.
- c. Detached Accessory Buildings may occupy the Side Setback Area provided that such Buildings are set back farther from the street than any part of the Principal Building on the same Lot and any part of the Principal Building on any Lot abutting said required Side Setback Area. Accessory Buildings shall not be located closer than three feet to any Lot Line.
- d. Accessory Buildings may occupy Rear Setback Areas provided that such Buildings do not occupy more than 35% of the required Rear Setback Area and are not closer than three feet to any Lot Line.
- e. Attached Accessory Buildings shall not occupy any portion of the required Side Setback Area.

#### 3. In Mixed Use and Nonresidential and Special Purpose Districts

Accessory Structures and Accessory Buildings are subject to the Area, Height, and Placement regulations of the zoning district in which they are located as provided in [Error! Reference source not found.5.17-Error! Reference source not found.Area, Height and Placement Regulations](#) and [Error! Reference source not found.5.18-Error! Reference source not found.Special Dimensional and Site Layout Standards](#).

### B. Dish Antenna

#### 1. General

- a. No Person shall install a Dish Antenna greater than three feet in diameter without having obtained a building permit and an electrical permit.

- b. Dish Antennas in any zoning district shall be installed and maintained in compliance with applicable building and electrical codes.
- c. Not more than one Dish Antenna greater than three feet in diameter shall be allowed on any Lot unless shown on an approved site plan.
- d. Dish Antennas must be solid in color.
- e. Dish Antennas must be permanently mounted except under the following circumstances:
  - i) The Dish Antenna has been designed and sold as a portable antenna not intended for permanent installation, and the diameter of the Dish Antenna does not exceed six feet. Portable Dish Antennas shall meet the requirements of Section [c](#) through e of this Section.
  - ii) Portable Dish Antennas may be installed at locations other than required in Subsections 2, 3, and 4 for not more than seven days in any 30-day period.

**2. R-1, R-2, R-3 or R-6 Districts**

- a. Dish Antennas shall be ground mounted.
- b. The diameter shall not exceed ten feet.
- c. The height shall not exceed 12 feet.
- d. Dish Antennas shall be located only in the area between the rear of the principal Structure and the Rear Lot Line.
- e. Dish Antennas shall not be placed closer to any Lot Line than its height.

**3. R-4 District**

Dish Antennas may be erected in any R-4 zoning district in accordance with the standards of Subsection 2, but they may be mounted on a Roof if they do not exceed the height limit of the district.

**4. All Districts Other Than R-1, R-2, R-3, R-4 and R-6 Districts**

- a. The diameter shall not exceed 12 feet.
- b. A ground-mounted Dish Antenna shall comply with the setback requirements established for its zoning district, but shall not be located in the Front Yard.
- c. The height for a ground-mounted Dish Antenna shall not exceed 25 feet.
- d. The height of a Roof-mounted Dish Antenna shall not exceed 15 feet, nor shall it exceed the height limit established within its zoning district.

## **C. Drive-Through Facility**

### **1. O District**

- a. Drive-Through Facilities are only permitted for financial uses, and are subject to Special Exception Use approval pursuant to Section [Error! Reference source not found.5.29.5](#).
- b. The Drive-Through Facility may not be located between a street and the Principal Building, and the vehicular circulation to enter and exit the facility may not impair the general vehicular circulation on the Site or the pedestrian circulation on and off the Site.

### **2. D1, D2, and C2B Districts**

- a. Drive-Through Facilities are permitted for any Principal Use of property, subject to Special Exception Use approval pursuant to Section [Error! Reference source not found.5.29.5](#).
- b. In the C2B district, the Drive-Through Facilities may not be located between a street and the Principal Building, and the vehicular circulation to enter and exit the facility may not impair the general vehicular circulation on the Site or the pedestrian circulation on and off the Site.

### **3. C3 District**

- a. The Drive-Through Facilities may not be located between a street and the Principal Building, and the vehicular circulation to enter and exit the facility may not impair the general vehicular circulation on the Site or the pedestrian circulation on and off the Site.

## **D. Accessory Dwelling Unit (ADU)**

1. An ADU is permitted on a parcel that has one Single-Family Dwelling as the permitted principal use.
2. The owner shall occupy either the ADU or the Single-Family Dwelling on the property, except for temporary absences not to exceed a combined total of six months in a calendar year.
3. The ADU shall be designed so that the appearance of the Building remains that of a Single-Family residence or detached Accessory Building such as a garage or carriage house. Any new entrances shall be located on the side of the Building or in the rear of the Building.
4. The minimum Lot Area for an ADU is 5,000 square feet. For Lots from 5,000 to 7,200 square feet in size, the maximum size of an ADU is 600 square feet of Floor Area or the size of the Floor Area of the ground Floor of the primary dwelling, whichever is less. For Lots 7,200 square feet or greater in size, the maximum size of an ADU is 800 square feet of Floor Area or the size of the Floor Area of the ground Floor of the primary dwelling, whichever is less.

5. The ADU shall not be occupied by more than the number of occupants permitted by Section [Error! Reference source not found.5-16-1A](#) except that only two unrelated Persons plus their Offspring living as a single Housekeeping Unit may occupy the ADU.
6. An ADU is permitted in a legally conforming Accessory Building that was constructed before December 31, 2016. Additionally, if the existing Accessory Building is more than 200 square feet of Floor Area then it may be replaced or modified and used as an ADU as long as the new or modified Accessory Building is legally conforming. A nonconforming Accessory Building that was constructed before December 31, 2016 which is over 200 square feet of Floor Area may be replaced or modified and used as an ADU as long as the new or modified Accessory Building is legally conforming.
7. The total number of Persons residing in the primary Dwelling Unit and the ADU combined shall not exceed four Persons plus their Offspring, except when a Functional Family is allowed by Special Exception Use.
8. At least one off-street Parking Space shall be provided for the ADU unless the property is within ¼ mile of a bus stop, then no additional Parking Space is required. Tandem or stacked parking in a Driveway may count toward the off-street parking requirement if not located in the Required Front Setback Area.
9. An ADU or Single-Family Dwelling that is not owner-occupied shall be subject to periodic housing inspections as required by Section 8:511.
10. Leasing or rental of the ADU for less than 30 days is prohibited.
11. A deed restriction that runs with the land, on a form to be provided by the City, shall be filed with the Register of Deeds prior to occupancy, and it shall incorporate the following restrictions:
  - a. The ADU may not be sold separately from the Single-Family Dwelling.
  - b. The owner occupancy requirement of Section [5.1.1D.25-16.6D.2](#)
  - c. The deed restriction shall be in effect until the ADU is removed.

**E. Manager’s Dwelling Unit**

**1. M1, M1A, and M2 Districts**

Limited to one Dwelling Unit, provided that it is specifically required to house a security guard or resident manager who is needed to properly carry on the business of the permitted use, and shall be used as a dwelling only by that security guard or resident manager and members of that Person’s family.

**F. Family Day Care Home**

**1. All Residential Zoning Districts**

Must be licensed by the State of Michigan Department of Licensing and Regulatory Affairs.

**G. Group Day Care Home**

**1. All Residential Zoning Districts**

- a. Shall be licensed by the State of Michigan Department of Licensing and Regulatory Affairs.
- b. A zoning permit shall be obtained from the PDSU.
- c. Shall be located on a Lot with at least 5,000 square feet of Lot Area.
- d. Shall provide at least one off-street Parking Space for each caregiver not living in the dwelling.
- e. Shall show that two off-street or on-street Parking Spaces are available within 250 feet of the parcel for drop off and pick up of children.

**H. Home Occupation**

**1. All Residential Zoning Districts**

- a. The total Floor Area devoted to the Home Occupation in the Principal or Accessory Building shall not exceed 25% of the Floor Area of the Dwelling Unit.
- b. Outside appearance of the Premises shall have no visible evidence of the presence of a Home Occupation.
- c. No outdoor display of goods or outside storage of equipment or materials used in the Home Occupation shall be permitted.
- d. No article or service shall be sold or offered for sale on the Premises except those that are produced or administered by such Home Occupation on the Premises.
- e. The nature of the Home Occupation shall not generate more than 10 Business-related vehicle trips in any one day in the vicinity of the Home Occupation, and any need for parking generated by the conduct of such Home Occupation shall be provided off-street in accordance with the off-street parking requirements.
- f. No equipment or process shall be used in such Home Occupation which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the Lot Line.
- g. The following are typical examples of that which often can be conducted within the limits of these restrictions and qualify as Home Occupations. Uses that may qualify as "Home Occupations" are not limited to those named in this paragraph (nor does the listing of a use in this paragraph automatically qualify it as a Home Occupation); accountant, architect, artist, author, consultant, tailor, individual musical instrument instruction,



individual academic tutoring, millinery, preserving, and home cooking.

- h. The following uses are not permitted as Home Occupations if conducted as a Person's principal occupation and the Person's dwelling is used as the principal place of Business: vehicle repair or painting; office, medical or dental.

## **I. Incidental Services**

### **1. O District**

Incidental Services other than Beauty Salons may be provided within an Office Building or Buildings for the convenience of occupants of that Building, provided the use meets the following standards:

- a. Not more than 5% of the Floor Area is used for Incidental Services.
- b. All Incidental Services shall be situated within the interior of the Building or Buildings so that no part of the Incidental Services use shall be directly accessible from the outside of the Building.
- c. No Sign or window display shall be discernible or visible from a public Sidewalk or Street.

### **2. R5 District**

All Incidental Services shall be situated within the interior of the Principal Building or Buildings.

### **3. ORL District**

- a. Not more than 25% of the Floor Area of any one Building and not more than 5% of the total Floor Area of all Buildings within the continuous boundary of the area zoned ORL may be used for Incidental Services.
- b. All such services shall be situated to conveniently serve the employees of the district.

## **J. Outdoor Display and Vending Machines**

### **1. The Display or Vending Machine:**

- a. Shall be located within ten feet of Principal Building.
- b. Shall not be located in any Setback Area.
- c. Shall maintain adequate pedestrian access and circulation.
- d. Is only permitted in an area specifically designated for outdoor sales and display on an approved site plan.

## **K. Outdoor Sales, Temporary**

### **1. Temporary Outdoor Sales:**

- a. Require the issuance of a zoning permit.

- b. Are limited to a maximum of 180 days per calendar year.
- c. Shall occupy an area of 10% or less of the Floor Area of the Principal Building or Principal Use.
- d. Shall not be located in any setback area, interior vehicular landscape area, Right-of-Way buffer area or conflicting land use buffer.
- e. Shall maintain adequate pedestrian and vehicular circulation.

**L. Restaurant, Bar, Food Service**

**1. R5 District**

Must be planned, designed, developed and made an integral and unified part of a Hotel so as to not result in a separate, freestanding Building.

**M. Retail Sales, General Merchandise**

**1. ORL District**

- a. Retail Sales of products or services produced on the Site shall be permitted as an Accessory Use.
- b. Floor Area used for sales and display shall not exceed 5% of the total Floor Area of the Principal Use.

**2. M1 and M1A Districts**

- a. Limited to Retail Sales of products customarily incidental to the Principal Use;
- b. Floor Area used for sales and display shall not exceed 10% of the total Floor Area of the Principal Use.

~~**N. Solar Energy System**~~

**N. Solar Energy System**

1. In Multiple-Family, Mixed Use, or Nonresidential and Special Purpose Zoning Districts, a SES is permitted subject to the requirements listed below and Section 5.1.1A5.16.6A5.16.6A Accessory Uses and Structures, except when the Principal Use is Single-Family Dwelling the standards provided in Section 5.1.105.16.605.16.60 shall apply.

A site plan is not required if it complies with the standards below:

- a. The SES shall result in no increase of impervious surface to the overall site.
- b. No required landscaping or landmark trees shall be removed or affected by the installation of the SES.
- c. No removal of required parking.
- d. A SES shall have a maximum height of 21 feet.
- e. A SES shall have a minimum of 90% of the surface covered by active solar collectors.

a. Applicant shall submit documentation demonstrating that the location and dimensions of the SES shall not interfere with vehicular and non-motorized safety, circulation and visibility

f. Total surface area of all SES structures shall not exceed 10,000 square feet.

~~1. In Multiple-Family, Mixed Use and Nonresidential and Special Purpose Zoning Districts, a SES is permitted subject to the requirements of Section 5.16.6A Accessory Uses and Structures, except when the Principal Use is Single-Family Dwelling the standards provided in Section 5.16.6O shall apply.~~

2. Installation, Use, and Maintenance

a. The SES shall be installed, maintained, and used only in accordance with the manufacturer's specifications.

b. The SES and its installation and use shall comply with the Michigan Building Code, the Michigan Electrical Code and any other applicable State codes, and installation of a SES shall not commence until all necessary permits have been issued.

#### **O. Personal-Scale Solar Energy System**

1. In Single-Family and Two-Family Zoning Districts, a Personal-Scale SES is permitted subject to the following standards.

a. Ground-Mounted SES. Ground-Mounted SES are subject to the requirements of Section ~~5.1.1A~~~~5.16.6A~~ Accessory Uses and Structures, except may not be located in a Front Yard, and shall be screened from view from the Right-of-Way.

b. Building-Mounted SES. Building-Mounted SES are subject to the dimensional standards provided in Section ~~Error! Reference source not found.~~~~5.17~~ for the zoning district in which the Lot is located.

2. Installation, Use, and Maintenance

a. The Personal-Scale SES shall be installed, maintained, and used only in accordance with the manufacturer's specifications.

b. The Personal-Scale SES and its installation and use shall comply with the Michigan Building Code, the Michigan Electrical Code and any other applicable State codes, and installation of a Personal-Scale SES shall not commence until all necessary permits have been issued.

#### **P. Wireless Communication Antenna**

The provisions of Section ~~Error! Reference source not found.~~~~5.16.6~~ shall apply as applicable to accessory antennas rather than freestanding Towers.

**5.1.2 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 [Error! Reference source not found.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.

**B. Rooftop Solar Energy Systems**

Rooftop Solar Energy Systems may extend up to 12 feet beyond the surface of a flat roof when determining the height of the building.

**B-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 [Error! Reference source not found.5.16.5D](#).