

**Attachment A:**

# **Unified Development Code**

Chapter 55

Code of Ordinances

City of Ann Arbor, Michigan

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Prepared for the Office of the Ann Arbor City Attorney and the  
Planning Services Unit by Clarion Associates, LLC

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February 6, 2018, as amended.

Passed at First Reading by the City Council on April 16, 2018, as  
amended.

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# Chapter 55

## Ann Arbor Unified Development Code

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### Article I: General Provisions<sup>1</sup>

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#### 5.1 Authority

This ordinance is enacted pursuant to the powers granted by the laws of the State of Michigan including the statutory authority granted in the Michigan Zoning Enabling Act (P.A. 110 of 2006) as amended, MCL 125.3101 et. seq., the Natural Resources and Environmental Protection Act (Part 91 of P.A. 451 of 1994) as amended, MCL 324.9101 et. seq., the Land Division Act (P.A. 288 of 1967) as amended, MCL 560.101 et seq., and other relevant laws of the state.<sup>2</sup> In addition, the City has been granted authority, by the State of Michigan, as a Municipal Enforcement Agency to issue soil Erosion and sedimentation control permits under the Natural Resources and Environmental Protection Act (Part 91 of P.A. 451 of 1994) as amended, MCL 324.101 et. seq.<sup>3</sup>

#### 5.2 Title

This ordinance may be cited as the Ann Arbor Unified Development Code and as Chapter 55 of Ann Arbor City Code.

#### 5.3 Effective Date

This ordinance was adopted by City Council on \_\_\_\_\_, and became effective on \_\_\_\_\_.<sup>4</sup>

#### 5.4 Purpose<sup>5</sup>

This ordinance is intended to require City review and approval of the Development of certain Buildings, Structures, land uses, and the creation of new Lots, all of which can have significant economic, social, and environmental impact on the community as a whole and on adjacent parcels and land uses. It is further the intent of this ordinance to provide for the preservation and management of significant Natural Features, ensure safe and efficient traffic patterns, and to achieve harmonious relationships between Buildings, Structures,

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<sup>1</sup> This is a new section that contains important general provisions that are relevant or apply to the UDC as a whole. It carries forward much of Chapter 55, Article XII, *Legal Status and Effective Date*, but includes proposed new text and provisions from other code sections as indicated. Throughout this document, references to City Building Codes have been changed to Construction Code.

<sup>2</sup> New section.

<sup>3</sup> New authority provision added from Chapter 63 definition.

<sup>4</sup> Replaces current 5:114.

<sup>5</sup> This new section is relocated text from current Ch. 57: Subdivision and Land Use Control but has been modified to apply more broadly to the entire ordinance. This has been done in lieu of including or repeating this language in multiple sections throughout the ordinance (e.g., Sec. 5.29.9.A)

infrastructure, and land uses, to implement the adopted master plan of the City, and to comply with all applicable federal and state laws.

## 5.5 Applicability

### 5.5.1 Required Conformity to District Regulations

- A. After the effective date of this chapter, no Structure or land shall be used or occupied, and no Structure or part of a Structure shall be erected, moved or altered, except in conformity with the regulations in this chapter for the zoning district and overlay zoning district, if any, in which the Structure or land is located, except as otherwise provided in this chapter.<sup>6</sup>
- B. Without limiting the generality of the previous sentence, no site plan, final preliminary plat, or PUD site plan shall be approved unless the site plan, final preliminary plat, or PUD site plan includes soil Erosion and Sediment control, and Storm Water Management Systems in compliance with the requirements of this chapter, and the Rules of the WCWRC.<sup>7</sup>
- C. No certificate of occupancy for any Building will be issued under Chapter 100 of City Code unless the Applicant for the certificate shall have complied with the requirements of this chapter,<sup>8</sup> stabilized all disturbed soils, and completed any soil Erosion and Sedimentation Control Measures and Storm Water Management Systems contained in any site plan, final preliminary plat, or PUD site plan approved for the Applicant.

### 5.5.2 Exceptions<sup>9</sup>

- A. The provisions of this chapter shall apply to all Development and the use of all land and Structures within the City, including land owned by government agencies or public educational institutions to the extent permitted by law, with the exception of the City ~~of Ann Arbor~~ and the Ann Arbor Downtown Development Authority, which are exempt from this chapter except as provided in Subsection B below.<sup>10</sup>
- B. Essential services or Buildings or Structures containing essential services are only required to comply with the soil Erosion and Sedimentation control requirements Section 5.22 (Storm Water Management and Soil Erosion), and are not required to comply with other provisions of this chapter, but those uses and Structures shall be permitted as authorized and regulated by other applicable law and City Code.<sup>11</sup>

<sup>6</sup> Text from Sec. 5:3(1) Required Conformance to District Regulations, but generally interpreted as applicable to all land regulations.

<sup>7</sup> Text of from Sec. 5:653 and 5:666 (Ch. 63 Storm Water Management). References to Chapter 57 were removed because that content is now in this Chapter. Name changed to reflect change to Washtenaw County Water Resources Commissioner.

<sup>8</sup> Reference to Land Development Regulations removed as they have been incorporated into this chapter.

<sup>9</sup> Text from Sec: 5:3(2), (3), (4), with revisions to clarify what types of entities are exempt from the UDC.

<sup>10</sup> Text revised to ensure that entities besides the City and DDA meet all requirements of the chapter unless they are specifically exempt by law which is consistent with custom and practice. The University of Michigan and Ann Arbor Schools will remain exempt from City requirement to the extent that they are exempt under state law.

<sup>11</sup> Text is from current 5:79. Inserted language covers former Chapter 63.

- C.** The provisions of this chapter do not apply to private Wireless Communications Facilities licensed or otherwise authorized by a governmental unit or agency, or by a public educational institution, during the time that the land or public Structure upon which it is placed is owned or used by such unit, agency or institution.
- D.** Land and Structures sold or otherwise disposed of by a governmental unit or agency, or by a public educational institution, exempt from requirements of this chapter by state law, other than to another such unit, agency or institution, shall be subject to the provisions of this chapter to the same extent as if never owned by such unit, agency or institution.

### 5.5.3 Liability<sup>12</sup>

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 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.

## 5.6 Applicability of Other Regulations<sup>13</sup>

**5.6.1** This chapter is intended to complement other municipal, state, and federal regulations that affect land use, but is not intended to revoke or repeal any other law, ordinance, regulation, or permit.

**5.6.2** Other codes that are applicable to Development in the City include but are not limited to:<sup>14</sup>

- A.** Michigan Building Code 2015.
- B.** Michigan Rehabilitation Code For Existing Buildings 2015.
- C.** Michigan Plumbing Code 2015.
- D.** Michigan Mechanical Code 2015.
- E.** Michigan Electrical Code based on the 2015 National Electrical Code with Part 8 State Amendments.
- F.** ICC / ANSI A117.1 – 2009 & Michigan Barrier Free Design Law of Public Act 1 Of 1966 as amended.
- G.** Michigan Uniform Energy Code 2015 with Rules 10 and 10a.
- H.** International Fire Code 2009.
- I.** International Fuel Gas Code 2015.
- J.** Michigan Residential Code 2015.

<sup>12</sup> Text from Chapter 63, Sec. 5.67~~2~~+ now made applicable to the full UDC.

<sup>13</sup> This is a new section to clarify legal requirements and current practice.

<sup>14</sup> Dates and titles of each document have been updated to reflect the version currently in effect. Items A, B, C, D, E and J are adopted by the Construction Code (Chapter 100).

**K. Rules of the WCWRC.**

**5.6.3** Where conditions, standards, or requirements imposed by any provision of this chapter are either more restrictive or less restrictive than comparable standards imposed by any other law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern. Where there is a conflict under this section, the Planning Manager shall determine which district or provision is more restrictive.

**5.6.4** No approval of any plan, plat or division pursuant to this chapter shall be construed as authorizing any improvement or action not in compliance with all provisions of this Code. If such a conflict appears, permits may be issued only in accordance with the applicable Code provisions. However, plans may be approved that are subject to approval of variances or other action of appeal boards.<sup>15</sup>

**5.7 Relationship to Private Agreements<sup>16</sup>**

It is not the intent of this chapter to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties concerning any property or activity regulated by this chapter. Where the provisions of this chapter impose a greater restriction than that imposed by a private agreement, the provisions of this chapter will control. Where the provisions of a private agreement impose a greater restriction than this chapter, the provisions of the private agreement may be enforced between private parties notwithstanding the provisions of this chapter. The existence of a private agreement shall not excuse any failure to comply with this chapter. The City shall not be responsible for monitoring or enforcing private agreements.

**5.8 Severability**

It is the legislative intent of the City Council in adopting this chapter that all provisions and sections of this chapter shall be liberally construed to protect and preserve the peace, health, safety and general welfare of the inhabitants of the City and that if any provision, portion, section or subsection of this chapter is held to be unconstitutional or invalid, that holding shall not be construed as affecting the validity of any of the remaining provisions, portions, sections or subsections; it being the intent of the City Council that this chapter shall stand, notwithstanding the invalidity of all or part of any provision or section.<sup>17</sup>

**5.9 Repeal of Previous Regulations****5.9.1 Repeal<sup>18</sup>**

The following ordinances and regulations of the City as amended are hereby repealed.

**A. Sections 4:16 through 4:20, and 4:30 of Chapter 47: Streets and Curb Cuts**

<sup>15</sup> Text from Sec. 5:136 *Subdivision* but made applicable to the full UDC to reflect current City practice.

<sup>16</sup> This is a new section to clarify legal requirements and current practice.

<sup>17</sup> Supplements the general savings clause applicable to the entire municipal code.

<sup>18</sup> From current 5:113, with revisions to reference current zoning ordinance. Although Chapter 47 was initially listed as a chapter from which material would be incorporated, no material was in fact incorporated, so that chapter was dropped from this list.

- B. Chapter 55: Zoning Ordinance
- C. Chapter 56: Prohibited Land Uses
- D. Chapter 57: Subdivision and Land Use Controls
- E. Chapter 59: Off-Street Parking
- F. Chapter 60: Wetlands Preservation
- G. Chapter 61: Signs and Outdoor Advertising
- H. Chapter 62: Landscaping and Screening
- I. Chapter 63: Soil Erosion and Sedimentation Control
- J. Chapter 104: Fences
- K. Land Development Regulations and Attachments A, B, C, and D.

### **5.9.2 Violations of Previous Regulations**

The adoption of this chapter shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of Chapter 55, as amended before the effective date of this chapter, if that violation is also a violation of the provisions of this chapter.

# Article II: Zoning Districts

## 5.10 General<sup>19</sup>

### 5.10.1 Classification of Districts

Ann Arbor is hereby divided into zoning districts and overlay zoning districts listed in this Article II.

### 5.10.2 Zoning District Boundaries Shown on the Zoning Map

The boundaries of the zoning districts and overlay zoning districts are hereby established as shown on the ~~Zoning zoning Map map~~ that accompanies this chapter and that, with all notations, references and other information shown on that map, shall be as much a part of this chapter as if fully described in this chapter. The Required Front Setbacks for downtown character overlay zoning districts are hereby established as shown on the Building Frontage Map that accompanies this chapter and that, with all notations, references and other information shown on that map, shall be as much a part of this chapter as if fully described in this chapter. The electronic version of the ~~Zoning zoning Map map~~ and Building Frontage Map reflecting all amendments approved by City Council shall be certified as the official copies by the City Clerk. Maps and descriptions accompanying enacted amendments shall be displayed adjacent to the official copy until such time as the official copy is corrected.<sup>20</sup>

### 5.10.3 Interpretation of the Zoning Map

Where, due to the scale, lack of detail, or illegibility of the zoning map accompanying this chapter, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown on that map, the Zoning Board of Appeals shall make an interpretation concerning the exact location of the zoning district boundary. The Board, in arriving at a decision on these matters, shall apply the following standards:

- A. Zoning district boundary lines are intended to follow Lot Lines, or be parallel or perpendicular to Lot Lines, or along the center lines of ~~alleys~~Alleys, streets, rights-of-way or Watercourses, unless the zoning district boundary lines are fixed by dimensions as shown on the Zoning Map.
- B. Where zoning district boundaries approximately follow Lot Lines, the Lot Lines shall be construed to be the boundaries.
- C. In unsubdivided property, or where a zoning district boundary divides a Lot, and no dimensions are shown on the zoning map the location of any boundary shall be determined by the use of the map scale shown on the map.
- D. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary, the Zoning Board of Appeals shall determine and fix the location of the line in a reasonable manner.

<sup>19</sup> Text from Sec. 5.2 through 5.5.

<sup>20</sup> Revised to refer to electronic map and to delete references to keeping paper copies on file.

#### 5.10.4 Relationship of Base and Overlay Zoning Districts

If a property is included in an overlay district listed in Section 5.14 , the standards of the overlay district shall apply in addition to the standards of the underlying base zoning district. In the event of an express conflict between the two sets of standards, the standards for the base zoning district shall control.<sup>21</sup>

### 5.11 Residential Zoning Districts<sup>22</sup>

#### 5.11.1 AG Agricultural-Open Space District

This district is intended<sup>23</sup> to preserve open areas and to provide a desirable environment in the City and to ensure that the benefits of open areas, light, air, and private recreational activities can exist in well-planned locations throughout the City; to provide areas where farming can exist in the City both as an industry and to preserve, for the residents of the City, examples of a lifestyle that is rapidly disappearing; and to control the proximity of these uses to other uses.

#### 5.11.2 R1A, R1B, R1C, R1D and R1E Single-Family Dwelling District<sup>24</sup>

- A. These Single-Family Zoning Districts are intended to provide an environment of Single-Family<sup>25</sup> detached dwellings, along with other related facilities that serve the residents in the district such as schools, recreational facilities, Parks, and Religious Assembly<sup>26</sup>. These districts should be convenient to commercial facilities in other zoning districts and to public transportation.
- B. These districts are intended to encourage the preservation and continuation of the longstanding residential fabric in existing neighborhoods of predominantly Single-Family Dwellings, along with other related facilities that serve the residents in these districts.
- C. Accessory Dwelling Units are allowed to enable a new housing prototype that respects the look and character of single-family neighborhoods while: supporting more efficient use of existing housing stock and infrastructure; providing housing that responds to changing Family needs, smaller households, and increasing housing costs; providing accessible housing for seniors and persons with disabilities; and supporting affordable housing goals.<sup>27</sup>
- D. Application of the R1D and R1E district may require a greater degree of services than the less dense Single-Family Zoning Districts. To assure health, safety and welfare, any future R1D and R1E zoning areas should be contingent upon the

<sup>21</sup> New provision to clarify current practice.

<sup>22</sup> This section includes the intent statements and any district-specific standards of the residential zoning districts. The list of permitted and Accessory Uses and associated use-specific standards for each district have been relocated to proposed Use Regulations. References to the R4A/B Multiple-Family dwelling district have been deleted because that district no longer exists.

<sup>23</sup> Language “This district is intended” revised throughout Article II for consistency.

<sup>24</sup> Revised to include references to R1E zoning district.

<sup>25</sup> The phrase “predominantly low-density” has been removed before Single-Family as a clarification since this paragraph refers a variety of densities for Single-Family Dwellings.

<sup>26</sup> The current text reads “churches”, but the name for that use has been changed.

<sup>27</sup> Added from ORD-16-16.



availability or provision of adequate public services to serve the higher densities permitted by that district, in addition to other pertinent planning considerations.

### **5.11.3 R2A Two-Family Dwelling District**

This district is intended to provide residential areas in the City that are suitable for Two-Family Dwellings. The district is intended to create areas of essentially single-family residential character utilizing two Single-Family Dwelling Units that are attached either side to side or vertically. The district is intended to be similar to the higher density Single-Family Zoning Districts, except for the different type and slightly higher density of Dwelling Units. Location criteria for the application of this district should include the availability or provision of adequate public services to serve such higher densities. It may be used as a transition zone between single-family areas and other areas.

### **5.11.4 R2B Two-Family Dwelling and Student Housing District**

This district is intended to permit Single-Family Dwellings and Two-Family Dwellings as well as to permit, in the vicinity of the University of Michigan campus, the operation of fraternities, sororities and student cooperatives affiliated with the University as well as other fraternities, sororities and student cooperatives. A further intent of this zoning district is to preserve the unique character and quality of the physical environment in this area of the City. The area is characterized by the presence of many large and architecturally distinctive houses set on relatively large Lots. Many Lots containing those houses are characterized by large Front Yard setbacks, mature and harmonious tree growth, and uniformity in architectural characteristics such as scale and use of materials. Any to existing houses and/or construction of new facilities should harmoniously reflect the overlying character of the surrounding environs.

### **5.11.5 R3 Townhouse Dwelling District**

In addition to types of Dwellings permitted in the R1 and R2 districts, this district is intended to permit attached<sup>28</sup> Dwelling Units to be arranged side by side in a low-density, Multiple-Family Dwelling fashion. These developments are most appropriate in the established areas of the City for infill purposes and perimeter areas of the City for large new developments and should provide the physical and social amenities of Open Space, recreational facilities, and compatibility with other residential land uses.

### **5.11.6 R4A Multiple-Family Dwelling District**

In addition to types of Dwellings permitted in the R1, R2, and R3 districts, this district is intended to permit attached Dwelling Units to be arranged either side by side or one above the other in a low-density, Multiple-Family Dwelling fashion. These developments are most appropriate in perimeter areas of the City.<sup>29</sup> Developments shall provide sufficient open land area to make them compatible with surrounding land uses and to provide for their residents an environment that is more than merely physically safe and healthy.

<sup>28</sup> The term "attached" has been added to clarify the intent of the R3, R4A and R4 Districts.

<sup>29</sup> Text deleted per ORD-10-34-Ch.55.



**5.11.7 R4B, R4C, R4D, and R4E Multiple-Family Dwelling Districts<sup>30</sup>****A. General Purpose Statement**

In addition to the types of Dwellings permitted in the R1, R2, R3, and R4A districts, these Multiple-Family Zoning Districts are intended to permit attached Dwelling Units to be arranged one above the other or side by side.

**B. Specific Purpose Statements**

1. The R4B Multiple-Family Dwelling District is intended to allow small tracts of land in established areas for infill purposes or medium sized tracts of land for moderate-sized developments.
2. The R4C Multiple-Family Dwelling District is intended to be located in the central area of the City in close proximity to the central business district and the University of Michigan campus.
3. The R4D Multiple-Family Dwelling District is intended to permit higher density in the form of high-rise Buildings on substantial tracts of land located in areas other than downtown<sup>31</sup>. Land use planning and Site design should minimize the impact of the permitted intensity of land use on adjacent property and on the community as a whole. Some of the criteria used in determining the location of this zoning district include:
  - a. The presence of natural land features that may be used to advantage in scaling down the potential impact on surrounding areas.
  - b. The location would enhance the bypasses and entrance ways to the City and provide a community focal or identity point.
  - c. The location would provide housing opportunities near outlying commercial, service, or employment centers.
4. The R4E Multiple-Family Dwelling District is intended to permit high-density, Multiple-Family development along signature transit corridors, as identified in the City's Master Plan, with nearby access to public land, schools, shops, and Personal Services outside the DDA boundary. The elements of land use planning and Site design should ensure that the impact of such intensity of land use on adjacent property and on the community as a whole is minimized.

**5.11.8 R6 Mobile Home Park District**

This district is intended to permit a transportable Dwelling Unit that is suitable for year-round occupancy and contains the same type of public utilities as immobile housing, in accordance with state, county and City statutes, ordinances and regulations, including but not limited to the National Manufactured Housing Construction & Safety Standards Act of

<sup>30</sup> References to the R4C/D Multi-Family Dwelling district were deleted because that district no longer exists, and references to R4E district were added.

<sup>31</sup> Previous references to the "central business district" have been changed to "downtown".

1974 (42 U.S.C.A. 5401 *et. seq.*, as amended). These developments shall be located on Sites of sufficient size that enable development to be interspersed with functional Open Space.<sup>32</sup>

## 5.12 Mixed Use Zoning Districts<sup>33</sup>

### 5.12.1 O Office District

This district is intended primarily for Office Buildings. The Office district classification will be applied as a transitional use buffer between residential uses and nonresidential and special purpose uses which would be incompatible in direct contact with residential zoning districts.

### 5.12.2 C1 Local Business District

This district is intended solely to serve the needs of the surrounding residential neighborhood, providing goods that are day-to-day needs and are classed by merchants as "convenience goods and services." The normal spacing between these shopping districts is approximately one mile, and the total land area averages two acres. Businesses that might tend to be a nuisance to the immediately surrounding residential development are excluded, even though the goods or services offered might be in the convenience category or classification. The regulations are designed to permit ~~Development~~ development of the enumerated functions as limited by the standards designed to protect the abutting or surrounding residential land. The regulations establish standards comparable to the standards for residential zoning districts to result in similar area, height, and Building placement.

### 5.12.3 C1A Campus Business District

This district is intended primarily to serve as a neighborhood shopping area for the university-oriented population that is concentrated around it, providing goods that are day-to-day needs, specialty shops, and recreation. While the primary function of this district is to serve as a neighborhood shopping area for the student/faculty population concentrated around it, it also has a community-wide orientation due to its unique and distinctive commercial function peculiar to university-oriented population. These districts shall be located in close proximity to the central area of the City.

### 5.12.4 C1B Community Convenience Center

This district is intended primarily to serve the needs of the surrounding community. This includes establishments that although they primarily serve a surrounding neighborhood, could also serve a larger trade or service area. These districts tend to create greater environmental stresses than those uses permitted under C1, even though the goods or services offered might be in the convenience category or classification. Most people entering this district will come by automobile and typically park once. The economic welfare of merchandising activities in these districts depends on moderate Development of comparison shopping. Office Building activities are compatible with the purpose of the

<sup>32</sup> Sentence reading "This district is intended to serve families and individuals who prefer living in an environment that offers detached housing alternatives" as unnecessary. Reference to federal act added.

<sup>33</sup> This section contains the "mixed use" districts. In this UDC, the term "mixed use" includes districts that allow as principle uses of land both (a) residential and (b) commercial, institutional, or industrial uses of land.

district as long as adequate and convenient automobile parking can be provided for both the Office and the retail merchandising activity.

#### **5.12.5 C1A/R Campus Business Residential District**

##### **A. Purpose Statement**

This district is intended to encourage the orderly clustering and placement of high-density residential and complementary commercial development near the campus Business district.

##### **B. Special Standards**

All commercial uses except Office uses shall not be permitted above the third Story.

#### **5.12.6 D1 and D2 Downtown Districts**

##### **A. General Purpose Statement**

These districts, in coordination with the character overlay zoning districts in Section 5.14, are intended to support the downtown as the City's traditional center. The downtown serves both the region and local residents as a place to live, work, and take advantage of civic, cultural, educational, shopping, and entertainment opportunities. The downtown districts are intended to allow a mixture of land uses, dense urban development, pedestrian orientation, unique residential opportunities, and a compatible and attractive mix of historic and contemporary Building design. Development in these districts is designed to be accessible by a variety of modes of transportation.

##### **B. Specific Purpose Statements**

###### **1. D1 - Downtown Core District**

This district is intended to contain the downtown's greatest concentration of development and serves as a focus for intensive pedestrian use. This district is appropriate for high-density mixed residential, Office, and commercial Development.

###### **2. D2 - Downtown Interface District**

This district is intended to be an area of transition between the D1 and surrounding residential neighborhoods. This district is appropriate for medium density residential and mixed-use Development.

##### **C. Relationship to Downtown Character Overlay Zoning Districts**

The D1 and D2 downtown zoning districts shall be further regulated by the character overlay zoning districts in Section 5.14. Unless otherwise specified in this chapter, regulations identified for both the downtown district and the applicable character overlay zoning district shall apply.

#### **5.12.7 C2B Business Service District**

This district is designed to provide for certain types of commercial activities that have functional and economic relationships to downtown core or downtown interface commercial

district.<sup>34</sup> In this district the customer may come to the particular establishment either by automobile or as an extension of downtown pedestrian shopping activity. Since there is little essential interdependence of activities, each establishment should have its own automobile parking area. Good traffic accessibility is essential to this district, particularly for trucks and other freight carriers. The uses permitted, because of their required contact with auto and truck traffic, would be incompatible in the downtown.

### 5.12.8 C3 Fringe Commercial District

This district is intended to provide for certain types of commercial activities that have characteristics in common. In this district, the customer usually comes directly to the particular establishment by automobile, making a separate stop for each errand. Comparison shopping activity is less than in the downtown area. Since there is little essential interdependence of activities, establishments can be dispersed over considerable areas with each establishment having its own automobile parking. Good automobile accessibility is essential to these districts. The uses permitted, because of their lack of intense pedestrian activity and their required contact with auto access would be incompatible in the downtown area.

## 5.13 Nonresidential and Special Purpose Zoning Districts

### 5.13.1 R5 <sup>35</sup>Hotel District

This district is intended to permit Hotels and certain institutional housing uses that provide nursing care for convalescence from illness or special care for the elderly.

### 5.13.2 P Parking District

This district is intended for off-street storage of noncommercial vehicles where no repair, sales, or services are rendered from the Parking Lot.<sup>36</sup>

### 5.13.3 PL Public Land District

This district is intended to classify publicly-owned uses and land and permit the normal principal and incidental uses required to carry out governmental functions and services.

### 5.13.4 RE Research District

#### A. Purpose Statement

This district is intended for research facilities to serve the needs of commerce, industry, business, and education. The prime characteristics of this district are the low intensity of land coverage, campus-like developments, preservation of

<sup>34</sup> We deleted a sentence reading as follows to avoid the risk of inconsistency between specific uses listed in an intent statement and those in the permitted use tables: "Such activities will include Wholesale suppliers retail and supply warehouses, motor vehicle major repair and service agencies, carports and other parking establishments, Equipment and machinery dealers, Building Materials dealers, food Processing plants, farm and garden supply stores, places of entertainment or Recreation, Public Utility facilities and retail establishments related in a peripheral manner to those of the central Business district."

<sup>35</sup> Texts edits per ORD-10-34-Ch.55.

<sup>36</sup> Deleted language reading "This district will be located, in many instances, within 500 feet of a Principal Use to provide the parking required by chapter 59 (or as modified by central area high-rise and parking report)" to reduce risks of inconsistency with zoning map.

significant Natural Features, and the absence of nuisance factors such as excess noise, heat or glare, air pollution or waste water production.

### **B. Special Standards**

All uses established in the RE district must comply with the following requirements:

1. Outdoor Storage of Equipment, goods, or materials is prohibited unless contained within a screened area shown on an approved site plan.<sup>37</sup>
2. All automobile ingress and egress shall be screened from residential zoning districts and no parking shall be allowed within a Required Setback Area that abuts a residential zoning district.
3. No process carried on within a Building shall cause noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat, glare, dust, vibration, light, or odor discernible at the Lot Lines.
4. All hazardous materials, waste, and wastewater associated with the use shall be handled and disposed of in a manner that is not dangerous to the health and safety of the abutting areas.
5. The emissions of air pollution shall not be detrimental to the public welfare.

### **5.13.5 ORL Office/Research/Limited Industrial District**

#### **A. Purpose Statement**

This district is intended to provide for a mixture of research, Office and light industrial uses whose external effects are restricted to the Site and do not adversely impact surrounding districts. The ORL district is structured to permit the manufacturing, processing, packaging, assembly, or treatment of finished or semi-finished products from previously prepared materials. The preservation of significant Natural Features and the encouragement of low-density, campus-like layouts are objectives for the establishment of such zones.

#### **B. Special Standards**

All uses established in the ORL District must comply with the following requirements:

1. Outdoor Storage of equipment, goods, or materials is prohibited unless contained within a screened area shown on an approved site plan.
2. Loading facilities shall be provided. Truck storage areas shall be provided in addition to the parking required by Section 5.19 where such storage is necessary for the operation of the use. Truck storage areas shall meet the Parking Lot standards of Section 5.19. Loading facilities and truck storage areas shall be screened from abutting residential uses and public street rights-of-way according to Section 5.20.3

3. All automobile ingress and egress shall be screened from residential zoning districts and no parking shall be allowed within a Required Setback Area that abuts a residential zoning district.
4. No process carried on within a Building or Structure shall cause noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat, glare, dust, vibration, light, or odor discernible at the Lot Lines.
5. All Hazardous materials, waste, and wastewater associated with the use shall be handled and disposed of in a manner that is not dangerous to the health and safety of abutting areas.
6. The emissions of air pollution shall not be detrimental to the public welfare.

#### **5.13.6 M1 Limited Industrial District**

This district is intended to provide land for various types of industrial and manufacturing uses that are compatible with one another. Properties included in this district are suited for use primarily by industries characterized by low land coverage, the absence of objectionable external effects and the possibility of large setbacks, attractive architecture and large, landscaped park-like areas. The purpose of the district is to provide suitable Sites for such uses while making certain that the allowed uses will be compatible with adjacent or surrounding districts. Development is limited to a low concentration, external effects are minimized, and permitted uses are limited to those which are adapted to an environment of this nature. Manufacturing plants and uses shall have performance characteristics similar to those uses allowed in this district in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic, or offensive odors or gases, glare, electromagnetic or atomic radiation. All uses shall be designed, constructed and operated so that there is no production of noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat or glare discernible at the Lots Lines.<sup>38</sup>

#### **5.13.7 M1A Limited Light Industrial District.**

This district is intended to provide land for various types of industrial manufacturing and certain low intensity commercial activity uses that are compatible with one another. The lands included in this district are those suited for use primarily by industries characterized by low land coverage, the absence of objectionable external effects and the possibility of large, landscaped, park-like areas. Manufacturing plants and uses shall have performance characteristics similar to those uses allowed in this district in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation. All uses located within this district shall be designed, constructed and operated so that there is no production of noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the lines, nor any production of heat or glare discernible at the Lot Lines.

#### **5.13.8 M2 Heavy Industrial District**

This district is intended to provide land for more intense types of industrial and manufacturing uses that are usually located deep within the industrial areas of the City and

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<sup>38</sup> Final words of sentence changed from “same point” to “Lot Lines” to reflect current practice.



downwind from residential and Business areas. Regulations to minimize their incompatibility with other residential zoning districts are the minimum required for mutual protection of the industrial areas. The district should not be adjacent to any residential or mixed-use district if that can possibly be avoided.

### 5.13.9 ~~PUD~~ Planned Unit Development (PUD) District

#### A. Purpose Statement

The purpose of this district is to permit flexibility in the regulation of land Development; to encourage innovation in land use and variety in design, layout, and type of Structures constructed; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage provision of Open Space<sup>39</sup> and protection of Natural Features; to provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the City; to expand the supply of Affordable Housing for Lower Income Households and to encourage the use, reuse, and improvement of existing Sites and Buildings that will be developed in a compatible way with surrounding uses, but where the uniform regulations contained in other zoning districts do not provide adequate protections and safeguards for the Site or surrounding area. The district is intended to accommodate developments with one or more land uses, Sites with unusual topography or unique settings within the community, or Sites that exhibit difficult or costly Development problems or any combination of these factors. This zoning district shall not be allowed where it is sought primarily to avoid the imposition of standards and requirements of other zoning classifications or other City regulations rather than to achieve the stated purposes above.

## 5.14 Overlay Zoning Districts<sup>40</sup>

### 5.14.1 Downtown Character Overlay Zoning Districts

#### A. General Purpose Statement

The purpose of these overlay zoning districts is to supplement the regulations for the D1 and D2 districts<sup>41</sup> to reflect the diversity of historical and built environments within the downtown. These character overlay zoning districts account for differences in the existing street pattern, density, massing, and design features that exist throughout the downtown, in addition to the intent of the City for the future Development of each area.

<sup>40</sup> The overlay section incorporates all the text from Sec. 5.10.20, *Downtown Character Overlay Zoning Districts*, except the definitions from 5.10(3)(b) have been relocated to Article VIII Definitions.

<sup>41</sup> "D1 and D2 districts" replaces "districts in the downtown".

## B. Specific Purpose Statements

### 1. South University<sup>42</sup>

The South University Overlay District lies along the southeastern edge of the University of Michigan central campus, which separates it from the other mixed use districts of downtown. This is an area characterized by a mix of Building types and sizes, with retail uses at the street level and relatively narrow Lot Widths. The intent for this district is to maintain a variety in scale, with design that reflects the small-scale widths and heights of Buildings in the area at the Streetwall and locates taller portions toward the interior of the Lot. The South University D2 Character District lies just outside the DDA boundaries, adjacent to nearby residential neighborhoods. The intent for this district is to maintain a variety of small-scale commercial and retail enterprises mixed with some residential uses, minimizing the impact on nearby residential streets.

### 2. State Street

The State Street Overlay District frames the northwest corner of the University of Michigan central campus and defines the edge of the commercial core of the downtown. This area is characterized by a mixture of entertainment and retail uses with strong connections to the campus. The intent for this district is preservation of the integrity of the historic district properties and the overall historic character of the area, with design that includes features of the traditional commercial storefronts at the ~~sidewalk's~~ Sidewalk edge.

### 3. Liberty/Division

The Liberty/Division Overlay District is located in the core of downtown, yet retains a small-scale residential character. A significant portion of this district coincides with the East William Historic District, and for this reason, preservation of the integrity of these resources is a high priority, as is the retention of the overall sense of scale. While increased Building mass can be accommodated in this district, it is the intent to maintain the traditional scale and rhythm of residential Buildings.

### 4. East Huron 1<sup>43</sup>

The East Huron 1 Overlay District is located on the north side of East Huron Street including North Fifth Avenue and South State Street, on a major transportation corridor through downtown and the address of many civic buildings, institutions and well-known landmarks of the downtown skyline. Most of its properties have free-standing buildings surrounded by open space, or have front courtyards or plazas, several of which are open to the public. There is a significant contrast between the massing and scale of the Structures within this character district and the residential scale of the Structures within this character district and the residential scale of the adjacent historic neighborhoods which surround the district on the north, east, and west sides. East Huron 1 lies between the Old Fourth Ward, Division Street and Ann Street historic districts

<sup>42</sup> Each of these “districts” is now termed an “overlay district” to clarify that its provisions supplement, but do not replace, the provisions of the underlying base zoning district.

<sup>43</sup> Provisions for East Huron 1 and 2 have now been separated. Text revised from ORD-15-07



and a business loop. This context is its defining feature and, therefore, calls for a higher degree of sensitivity in design and massing to strike a balance between the downtown core and adjacent historic residential neighborhoods.

### **5. East Huron 2<sup>44</sup>**

The East Huron 2 Overlay District is located on the south side of East Huron Street between South Division and North State streets, on a major transportation corridor through downtown. From east to west, this block's character moves from campus-like settings with iconic, free-standing buildings surrounded by lawns seen "in the round" to historic, utilitarian commercial buildings at the ~~sidewalk~~-Sidewalk edge, matching the character district's placement between the University of Michigan Central Campus and downtown's civic core. North of this character district lies its sister character area, East Huron 1. To the south, East Huron 2 parallels an area of downtown's core that retains a small scale residential character.

### **6. Midtown**

The Midtown Overlay District is framed on all sides by other downtown character residential zoning districts and contains the Fifth Avenue civic corridor. At present, this district lacks a strong sense of identity and is a place where creation of a new context should occur. The intent for this district is higher density development with a strongly defined street edge and Active Open Spaces.

### **7. Main Street**

The Main Street Overlay District is the traditional heart of downtown, with a regional entertainment and Business focus. The center of the district contains the Main Street Historic District, and preservation of these resources is a high priority. The intent for this district is design that maintains the traditional rhythm of existing storefronts along the street edge and varying parapet lines.

### **8. Kerrytown**

The Kerrytown Overlay District frames the north end of downtown and is characterized by a mix of small-scale commercial Buildings and houses that have been adapted to different uses. The eastern part of the district is part of the Old Fourth Ward Historic District, while the southeast corner of the district is located in the Fourth/Ann Historic District. The intent for this district is retaining traditional existing Building patterns, with lower-scale Building modules and residential shapes.

### **9. First Street**

The First Street Overlay District runs north-south along the Ann Arbor Railroad and Allen Creek floodplain. This area is characterized by oddly-shaped blocks and a mixture of commercial storefronts, industrial Buildings and single-family homes. Many of these Buildings are located in the Old West Side historic district, which makes up much of the character area. The intent for this district is for infill development that preserves historic Buildings' assets, supports

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<sup>44</sup> Text revised from ORD-15-07.

downtown activities, and provides non-motorized connections through preservation of a system of public and common Open Spaces. New Development along the Allen Creek floodplain should be sited to provide green space on Site and be located in such a way that it will connect with green space on abutting properties.

### **C. Applicability**

The Downtown Character Overlay Zoning Districts provide additional regulations to the D1 and D2 districts. Unless otherwise specified in this chapter, regulations identified for both the downtown district and the applicable downtown character overlay zoning district shall apply. In the case of a direct conflict between base zoning districts and overlay zoning district, the base zoning district provisions shall apply.

### **D. Building Massing Standards**

Special building massing standards for the Downtown Character Overlay Zoning Districts are shown in Section 5.17.6A.

### **E. Building Front Setback Standards**

Special building front setback standards for the Downtown Character Overlay Zoning Districts are shown in Section 5.17.6B.

# Article III: Use Regulations<sup>45</sup>

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## 5.15 Permitted Use Table<sup>46</sup>

Abbreviations in Table 5-15 shall have the following meanings:

### 5.15.1 Permitted Uses (P)

These uses are permitted by right in the district. Permitted uses are identified with a "P".

### 5.15.2 Special Exception Uses (E)

These uses may be allowed in a district subject to review and approval by the Planning Commission. Special Exception Uses are identified with an "E". A Special Exception Use is subject not only to the minimum requirements for that use in the zoning district in which it is located, but also to the applicable standards and requirements found in Section 5.29.5. Special conditions may be imposed by the Planning Commission in order to make the use compatible with the uses permitted by right in that zoning district.

### 5.15.3 Accessory Use (A)

Any Accessory Use incidental to the permitted Principal Use is permitted, unless otherwise permitted or restricted by this chapter. Accessory Uses are identified with an "A".

### 5.15.4 Prohibited Uses ( )

These uses are not permitted in the district. Prohibited uses are identified with a blank cell. Any use not expressly permitted is prohibited.<sup>47</sup>

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<sup>45</sup> All text came from current code use regulations, unless otherwise noted. The contents of current Chapter 56 Prohibited Land Uses have been relocated to use specific standards. The table on the following pages consolidates numerous uses that had similar names and definitions (or no definitions) in different zoning districts, which City staff have interpreted as the same use, in order to simplify and reduce the length of the table. The table reflects staff's reading of the use controls in the current zoning ordinance.

<sup>46</sup> Text from Sec. 5:6, except that portions of subsections (1) that were repetitive of material in Article I were not carried over, and (2) provisions subsections (2) – (5) were incorporated into the use table and so are not included here.

<sup>47</sup> Text from Section 5:6(1).



**TABLE 5-15: PERMITTED USE TABLE**

P= PERMITTED      E = SPECIAL EXCEPTION      A= PERMITTED ACCESSORY USE      BLANK CELL = PROHIBITED

NOTE: ALL PROPERTIES ARE SUBJECT TO THE ADDITIONAL STANDARDS INDICATED FOR THAT USE IN THE RIGHT COLUMN

NOTE: ALL PROPERTIES IN OVERLAY DISTRICTS ARE SUBJECT TO THE ADDITIONAL USE REGULATIONS IN SEC. 5.13

NOTE: SPECIFIC USES IN THE C1A/R, RE, AND ORL DISTRICTS ARE SUBJECT TO ADDITIONAL STANDARDS FOUND IN SECTIONS 5.12.5, 5.13.4, AND 5.13.5 RESPECTIVELY

USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS						
	AG	RIA	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>49</sup>	C3	R5	P	PL	RE <sup>50</sup>	ORL <sup>51</sup>	M1	M1A	M2	5.16	
Fraternities, Sororities, and Student Cooperative Housing							E		E	E	E	E	E		E	P	P	P	P	P	P	P	P										5.16.1A; 5.16.1E	
Group Housing <sup>54</sup>							E		E	P	P	P	P		P	P	P	P	P	P	P	P	P										5.16.1A; 5.16.1F	
Guest House <sup>55</sup>									P	P	P	P	P		P	P	P	P	P	P	P	P	P										5.16.1A; 5.16.1G	
<b>PUBLIC/ INSTITUTIONAL</b>																																	<b>5.16.2</b>	
Community and Cultural																																		
Cemetery	P <sup>56</sup>																																	
Club Headquarters or Community Center <sup>57</sup>							E		E	E	E	E	E		E	P	P	P	P	P	P	P	P										5.16.2C	
Conference Center <sup>58</sup>																				E								E						
Correctional Facility																											P							
Museum, Art Gallery <sup>59</sup>																					P	P	P	P			P							
Funeral Services <sup>60</sup>																P	P	P	P	P	P	P	P							P	P	P		

<sup>54</sup> New use that consolidates the existing “Boarding House” and “Rooming House” uses.

<sup>55</sup> New use to implement Ord. 10-32

<sup>56</sup> Reflects current interpretation of code that cemeteries are not a permitted use in residential districts.

<sup>57</sup> This use merges the three current uses of “Club Headquarters,” “Community Center,” and “Social & Service Club.”

<sup>58</sup> Merged with “Place of Assembly.”

<sup>59</sup> Merged with “Museum.”

<sup>60</sup> Merged with “Funeral Home.”

**TABLE 5-15: PERMITTED USE TABLE**

P= PERMITTED      E = SPECIAL EXCEPTION      A= PERMITTED ACCESSORY USE      BLANK CELL = PROHIBITED

NOTE: ALL PROPERTIES ARE SUBJECT TO THE ADDITIONAL STANDARDS INDICATED FOR THAT USE IN THE RIGHT COLUMN

NOTE: ALL PROPERTIES IN OVERLAY DISTRICTS ARE SUBJECT TO THE ADDITIONAL USE REGULATIONS IN SEC. 5.13

NOTE: SPECIFIC USES IN THE C1A/R, RE, AND ORL DISTRICTS ARE SUBJECT TO ADDITIONAL STANDARDS FOUND IN SECTIONS 5.12.5, 5.13.4, AND 5.13.5 RESPECTIVELY

USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS					
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>49</sup>	C3	R5	P	PL	RE <sup>50</sup>	ORL <sup>51</sup>	M1	M1A	M2	5.16
Government Offices and Courts															P	P	P	P	P	P	P	P	P						P	P			
Library		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				P			P	P		
Park, Recreation and Open Space <sup>61</sup>																											P						5.16.2G
Religious Assembly <sup>62</sup>	P	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	P	P	P	P	P	P	P										
<b>Day Care</b>																																	
Adult Day Care Center <sup>63</sup>		E	E	E	E	E	E	E	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						E	P	P	P	5.16.2A
Child Care Center <sup>64</sup>		E	E	E	E	E	E	E	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					E	P	P	P	5.16.2B	
<b>Educational</b>																																	
Institutions of Higher Learning, Private <sup>65</sup>		E	E	E	E	E	E	E	E	E	E	E	E	E	P	P	P	P	P	P	P	P	P							P	P	P	5.16.2E
Institutions of Higher Learning, Public <sup>66</sup>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
School, Private		E	E	E	E	E	E	E	E	E	E	E	E	E	E	P	P	P	P	P	P	P	P										
School, Public	P	P	P	P	P	E	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
School, Trade/Industrial																	P	P	P	P	P	P	P				P		P	P	P	P	

<sup>61</sup> Language in current code is “Developed Open Space, such as: arboreta, botanical and zoological gardens.”

<sup>62</sup> Church merged with “Religious Assembly.”

<sup>63</sup> New use but reflects existing practice.

<sup>64</sup> Merged with “Child Care Center/Nursery Care/Day Care Center/Nursery School

<sup>65</sup> Language from current code is “Private colleges, universities, and other institutions of higher learning, offering courses in general, technical or religious education.”

<sup>66</sup> This use added for clarity and based on “Institutions of Higher Learning, Private.”

**TABLE 5-15: PERMITTED USE TABLE**

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**NOTE: SPECIFIC USES IN THE C1A/R, RE, AND ORL DISTRICTS ARE SUBJECT TO ADDITIONAL STANDARDS FOUND IN SECTIONS 5.12.5, 5.13.4, AND 5.13.5 RESPECTIVELY**

USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS													
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>69</sup>	C3	R5	P	PL	RE <sup>70</sup>	ORL <sup>71</sup>	M1	M1A	M2	5.16								
<b>Health Care</b>																																									
Hospital										E	E	E	E	E		<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>													P				<u>E</u>	<u>E</u>		5.16.2D	
Nursing Care Facility <sup>67</sup>										P	P	P	P	P		P	P	P	P	P	P	P	P										P					P	P	P	5.16.2F
<b>COMMERCIAL</b>																																									5.16.3
<b>Lodging</b>																																									
Bed and Breakfast																					P	P	P	P									P								
Hotel <sup>68</sup>																P	P	P	P	P	P	P	P										P								
<b>Recreation, Entertainment, and Arts</b>																																									
Adult Entertainment Business																																						P		P	5.16.3A
Artist Studio																P	P	P	P	P	P	P	P	P														P	P	P	5.16.3B
General Entertainment <sup>69</sup>																	P	P	P	P	P	E	P	P																	5.16.3D
Indoor Recreation <sup>70</sup>																<u>E</u>	P	P	P	P	P	P	P	P											P	<u>E</u>	E	E	E	E	5.16.3F
Outdoor Recreation <sup>71</sup>	P	E	E	E	E	E	E	E	E	E	E	E	E	E									P	P											P <sup>72</sup>		E				5.16.3H

<sup>67</sup> This use merges “Convalescent/Nursing Home/Homes for the Elderly”, “Convalescent/Nursing Homes”, and “Public Service Institutions.”

<sup>68</sup> Merged with “Hotels/Motels.”

<sup>69</sup> Includes a broad spectrum of generally non-sporting entertainment uses, such as Theatres, music, dancing, arcades, Pinball Parlor, etc.

<sup>70</sup> This is a new use that merges a broad spectrum of indoor uses, including “Court Game Facilities, Indoor.” Changed from P to E use in O district per ORD-14-06.

<sup>71</sup> Merges a broad spectrum of outdoor uses, such as “Golf Course,” “Swimming Club, Private,” and “Park/ Athletic Field.” Language in current code for C2a and C3 Districts is “Outdoor Recreation, such as: miniature golf, golf driving ranges, commercial swimming pools, outdoor theaters and canoe liveries.” Added as E use in ORL per ORD-14-15.

<sup>72</sup> Language in current code is “Outdoor public Recreational uses, such as: playgrounds, playfields, golf courses, boating areas, fishing sites, camping sites, parkways, and Parks.”





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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	RIA	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>49</sup>	C3	R5	P	PL	RE <sup>50</sup>	ORL <sup>51</sup>	M1	M1A	M2	5.16		
<b>Services and Repair</b>																																			
Automobile, Truck, Construction Equipment Repair <sup>76</sup>																					E	E	P	P							P	P	P	5.16.3C	
Contractors, General Construction, and Residential Building																						P	P	P							P	P	P		
Laundry, Cleaning, and Garment Services																	P	P	P	P	P	P	P	P							P	P	P		
Parking Lot or Structure <sup>77</sup>																					E	E					P	P						5.16.3J	
Personal Services																P	P	P	P	P	P	P	P <sup>78</sup>	P										5.16.3K	
Vehicle Wash <sup>79</sup>																					E	E	E	P											
Veterinary, Kennel, and Animal Boarding <sup>80</sup>																E	E	E	E	E	P	P	P	P							P	P	P	5.16.3M	

<sup>76</sup> Merged with “Vehicle Repair, Storage.”

<sup>77</sup> Merges “Parking Lot - Principal Use” and “Parking Structure.” Current language for P district is “Off-street parking, including private and community garages, in accordance with the requirements of Chapter 59).

<sup>78</sup> Language of current code is “Business and Personal service which are performed within an enclosed Building, including duplicating, hairdressing, blueprinting, printing, photographic reproduction and film Processing.”

<sup>79</sup> Changed from P to E use in C2B district per ORD-14-06.

<sup>80</sup> Merges “Veterinary Hospitals and Kennels.” Changed from P to E use in O district per ORD-14-06.

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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	RIA	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>83</sup>	D1	D2	C2B <sup>80</sup>	C3	R5	P	PL	RE <sup>80</sup>	ORL <sup>81</sup>	M1	M1A	M2	5.16		
<b>OFFICE AND RESEARCH</b>																																		5.16.4	
<b>Office-Type</b>																																			
Bank, Credit Union, Financial Services																P	P	P	P	P	P	P	P	P						P	P <sup>81</sup>				
Office, General <sup>82</sup>																P	P	P	P	P	P	P	P				P	P	P	P			5.16.4C		
Medical/Dental																P	P	P	P	P	P	P	P						P	P			5.16.4C		
Nonprofit Corporations <sup>83</sup>		E	E	E	E	E	E	E	E	E	E	E	E	E		P	P	P	P	P	P	P	P			P	P	P	P				5.16.4B		
<b>Research and Development</b>																																			
Laboratory																												P	P	P	P	P		5.16.4A	
Medical Laboratory <sup>84</sup>																			P	P	P	P	P				P	P	P	P	P				
Medical Marijuana Safety Compliance Facility <sup>85</sup>																											P	P	P					5.16.3G	
Research/Development																											P	P	P	P	P				
<b>TRANSPORTATION</b>																																			

<sup>81</sup> Includes current staff interpretation that Office uses may only be accessory uses in the M2 district.

<sup>82</sup> Merges "General/Business."

<sup>83</sup> New use based on "Office" use.

<sup>84</sup> Added as P use in C2B and C-3 per ORD-14-06.

<sup>85</sup> Added per Ord. 17-21.

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USE CATEGORY AND TYPE	RESIDENTIAL																MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS					
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>88</sup>	D1	D2	C2B <sup>89</sup>	C3	R5	P	PL	RE <sup>90</sup>	ORL <sup>91</sup>	M1	M1A	M2	5.16		
Medical Marijuana Secure Transporter <sup>86</sup>																							P	P										5.16.3G	
Railroad and Public Transportation Rights-of-Way <sup>87</sup>																					P	P	P	P							P	P	P		
Transit Center, Station, or Depot																					P	P	P	P							P	P	P		
Transportation Facilities <sup>88</sup>																																P			
<b>INDUSTRIAL</b>																																			5.16.5
<b>Agricultural</b>																																			
Agriculture/Greenhouse	P																																		
Barns	P																																		
Borrow Pits	E																																		
Medical Marijuana Grower <sup>89</sup>																	P	P	P	P					P										5.16.3G
<b>Manufacturing, Processing, Assembly, and Fabrication</b>																																			

<sup>86</sup> Added per Ord. 17-21.

<sup>87</sup> Formerly "Railroad."

<sup>88</sup> Replaces "Municipal Airports" in the PL district per Ord. 10-17.

<sup>89</sup> New use added by Ord.10-37, revised to align with state law per Ord. 17-21, which revises use from P to E in RE and ORL districts.

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USE CATEGORY AND TYPE	RESIDENTIAL																MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE							USE-SPECIFIC STANDARDS			
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>49</sup>	C3	R5	P	PL	RE <sup>50</sup>	ORL <sup>51</sup>	M1	M1A	M2	5.16	
Asphalt, Concrete Mixing Plant, Sand and Gravel Pit <sup>90</sup>																																		E
Coal and Coke Dealer <sup>91</sup>																																		P
Food and Beverages																														P	P	P		
Heavy Manufacturing <sup>92</sup>																																P	5.16.5A	
Laundry and Dry Cleaning Plant <sup>93</sup>																													P	P	P			
Light Manufacturing <sup>94</sup>																												P	P	P		5.16.5B		
Medical Marijuana Processor <sup>95</sup>																											E	E	P			5.16.3G		
Oil and Gas Wells																																	5.16.5C	
Pilot Manufacturing																											P	P	P	P	P			
Scrap and Waste Material <sup>96</sup>																																E		
Slaughterhouse <sup>97</sup>																																E		

<sup>90</sup> Merges “Scrap and waste material, Asphalt and Concrete Mixing Plants, sand and gravel pits, slaughterhouse.”

<sup>91</sup> New use taken from “General Construction Contractors such as highway and street, heavy construction and general Buildings; Coal and Coke Dealers.”

<sup>92</sup> This is a new use based on the allowed uses in the current M2 Heavy Industrial District (Sec. 5:10.26(2)(e)).

<sup>93</sup> Formerly Laundry, Cleaning, and Garment Services.

<sup>94</sup> This is a new use based on the allowed uses in the current M1 Limited Industrial District (Sec. 5:10.24(2)(e)).

<sup>95</sup> Added per Ord. 17-21.

<sup>96</sup> New use taken from “Scrap and waste material, Asphalt and Concrete Mixing Plants, sand and gravel pits, slaughterhouse.”

<sup>97</sup> New use taken from “Scrap and waste material, Asphalt and Concrete Mixing Plants, sand and gravel pits, slaughterhouse.”

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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>98</sup>	D1	D2	C2B <sup>99</sup>	C3	R5	P	PL	RE <sup>99</sup>	ORL <sup>99</sup>	M1	M1A	M2	5.16		
<b>Utilities and Communications</b>																																			
Broadcasting Facility																					P	P	P	P							P	P	P		
Data Processing and Computer Centers <sup>98</sup>																P	P	P	P	P	P	P	P				P	P	P	P	P	P			
Electric, Gas, and Sanitary Services <sup>99</sup>																														P	P	P			
Power and Fuel Rights-of-Way <sup>100</sup>																																	P		
Wireless Communication Facilities	P															P	P			E	E	E	P	P	E		P	P	P	P	P	P		5.16.5D	

<sup>98</sup> Use merges multiple existing uses; language of current code for ORL is “Data Processing and Computer Centers including computer programming and software Development, training, and services and maintenance of electronic data Processing Equipment.”  
<sup>99</sup> Formerly “Transportation, communications, Electric, Gas and Sanitary Services.”  
<sup>100</sup> Formerly “Transportation, communications, Power and Fuel Rights-of-Way.”

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USE CATEGORY AND TYPE	RESIDENTIAL															MIXED USE						NONRESIDENTIAL AND SPECIAL PURPOSE					USE-SPECIFIC STANDARDS										
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>10</sup>	C3	R5	P	PL	RE <sup>90</sup>	ORL <sup>51</sup>	M1	M1A	M2	5.16				
<b>Warehousing and Storage</b>																																					
Outdoor Storage																																		P	P	P	
Warehousing and Indoor Storage <sup>101</sup>																							P	P								P	P	P			
<b>ACCESSORY USES</b>																																				5.16.6	
All Accessory Buildings <sup>102</sup>																																				5.16.6A;	
Bed and Breakfast, Accessory <sup>103</sup>		A	A	A	A	A	A	A	A	A	A	A	A	A																					5.16.6A		
Community Recreation <sup>104</sup>										A	A	A	A	A																					5.16.6A;		
Dish Antenna		A	A	A	A	A	A	A	A	A	A	A	A	A																					5.16.6A; 5.16.6A.3; 5.16.6B		
Drive-Through Facility <sup>105</sup>															E							E	E	E	E									5.16.6A; 5.16.6A.3; 5.16.6C			

<sup>101</sup> Formerly “Wholesaling, Warehousing, refrigerated, and general storage.”

<sup>102</sup> Added to cross-reference to the dimensional standards section and not to the use-specific standards.

<sup>103</sup> New use to distinguish from “Bed and Breakfast,” which is a primary use where the operator does not live in the B & B dwelling.

<sup>104</sup> Formerly “Social Club and Community Recreation Buildings.”

<sup>105</sup> Formerly “Drive-Through Facility” and relocated from Principal Use category to Accessory Use category. Added as E use in O district, and changed from P to E use in C2B and C3 districts, per ORD-14-06.

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USE CATEGORY AND TYPE	RESIDENTIAL																MIXED USE								NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS		
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>10</sup>	C3	R5	P	PL	RE <sup>50</sup>	ORL <sup>51</sup>	M1	M1A	M2	5.16
Dwelling Unit, Accessory <sup>106</sup>		A	A	A	A	A																											5.16.6A; 5.16.6D;
Dwelling Unit, Manager's <sup>107</sup>																													A	A	A	5.16.6A; 5.16.6E	
Family Day Care Home	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									5.16.6A; 5.16.6F
Group Day Care Home	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A										5.16.6A; 5.16.6G
Home Occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A										5.16.6A; 5.16.6H; 5.16.6H.1 e
Incidental Services																A								A								5.16.6A; 5.16.6I	
Management/Maintenance Office and Storage <sup>108</sup>									A	A	A	A	A	A	A	A	A	A	A	A	A	A				A	A	A					5.16.6A
Medical Marijuana Home Occupation <sup>109</sup>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A										5.16.6A; 5.16.3G
Medical Marijuana Use or Cultivation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A										5.16.6A; 5.16.3G

<sup>106</sup> Formerly "Apartment."

<sup>107</sup> Formerly "Dwelling Unit."

<sup>108</sup> Formerly "Storage/Maintenance Building, enclosed."

<sup>109</sup> New use added by Ord.10-37.

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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS						
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>48</sup>	D1	D2	C2B <sup>10</sup>	C3	R5	P	PL	RE <sup>90</sup>	ORL <sup>51</sup>	M1	M1A	M2	5.16	
Office, Administrative/Executive <sup>110</sup>																											A				A	A	A	5.16.6A;
Outdoor Display and Vending Machines <sup>111</sup>																	A	A	A	A	A	A	A	A										5.16.6A; 5.16.6J
Outdoor Sales, Temporary <sup>112</sup>																A	A	A	A	A	A	A	A											5.16.6A; 5.16.6K
Parking Attendant Building <sup>113</sup>																											A							5.16.6A;
Restaurant, Bar, Food Service																										A								5.16.6A; 5.16.6L
Retail Sales, General Merchandise																														A	A	A	A	5.16.6A; 5.16.6M
Roadside Stand	A																																	5.16.6A
Solar Energy System <sup>114</sup>	A								A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	5.16.6A 5.16.6N	
Solar Energy System, Personal-Scale		A	A	A	A	A	A	A	A	A																								5.16.6A 5.16.6O

<sup>110</sup> Formerly “Office, Executive and Administrative” and relocated from Principal Use category to Accessory Use category.

<sup>111</sup> This is a new Accessory Use.

<sup>112</sup> This is a new Accessory Use.

<sup>113</sup> Formerly “Shelter Building for attendants.”

<sup>114</sup> Two Solar Energy System uses added from Ord. 18-01.



**TABLE 5-15: PERMITTED USE TABLE**

P= PERMITTED      E = SPECIAL EXCEPTION      A= PERMITTED ACCESSORY USE      BLANK CELL = PROHIBITED

NOTE: ALL PROPERTIES ARE SUBJECT TO THE ADDITIONAL STANDARDS INDICATED FOR THAT USE IN THE RIGHT COLUMN

NOTE: ALL PROPERTIES IN OVERLAY DISTRICTS ARE SUBJECT TO THE ADDITIONAL USE REGULATIONS IN SEC. 5.13

NOTE: SPECIFIC USES IN THE C1A/R, RE, AND ORL DISTRICTS ARE SUBJECT TO ADDITIONAL STANDARDS FOUND IN SECTIONS 5.12.5, 5.13.4, AND 5.13.5 RESPECTIVELY

USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS						
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>15</sup>	D1	D2	C2B <sup>16</sup>	C3	R5	P	PL	RE <sup>17</sup>	ORL <sup>18</sup>	M1	M1A	M2	5.16	
Wireless Communication Antenna <sup>115</sup>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.16.6A; 5.16.6P	
<b>TEMPORARY USES</b>																																		5.16.7
Christmas Tree Sales <sup>116</sup>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P										5.16.7A
Outdoor Sales, Temporary by Others <sup>117</sup>																	E	E	E	E	E	E	E	E										5.16.7B
Special Event Sales <sup>118</sup>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.16.7C

<sup>115</sup> Added to clarify that antennas without Towers are currently allowed as an Accessory Use, and are not subject to placement, setback, etc. standards applicable to Towers.

<sup>116</sup> New temporary use, because this activity is referred to in the text of the current code.

<sup>117</sup> Formerly “Temporary Outdoor Sales.”

<sup>118</sup> New temporary use, because this activity is referred to in the text of the current code.

### 5.16.1 Residential Uses

#### A. Residential Occupancy<sup>120</sup>

##### 1. Purpose

This section is intended to reasonably regulate the number of Persons who can live in a residential Dwelling Unit. The City finds that occupancy limits are needed to provide density control; preserve and enhance residential neighborhoods as stable, quiet places for citizens to live and raise children; protect safety and welfare; and maintain property values. Such limits are also needed to ensure that there are adequate public and private facilities including adequate off-street parking, utilities, and adequate Lot size to accommodate the residents of each Dwelling Unit without impairing the character of the neighborhood. The City also finds there are a number of residential living arrangements other than the traditional biological Family arrangement. This section is intended also to accommodate those alternative living arrangements.

##### 2. Limits on Occupancy of Dwelling Unit

A Dwelling Unit may be occupied by one of the following Family living arrangements:

- a. One or more Persons related by blood, marriage, adoption, or guardianship living as a single Housekeeping Unit, in all districts.
- b. A maximum of four Persons plus their Offspring living as a single Housekeeping Unit, in all districts.
- c. A maximum of six Persons living as a single Housekeeping Unit in Multiple-Family and mixed use districts only.<sup>121</sup>
- d. A Functional Family living as a single Housekeeping Unit that has received a Special Exception Use permit pursuant to Section 5.29.5

##### 3. Additional Standards for Functional Family

In addition to meeting the definition in Article VIII of this chapter and the Special Exceptions Use standards of Section 5.29.5, a permit for a Functional Family is subject to the following standards and regulations:

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<sup>119</sup> As staff consolidated the names of very similar uses, they also consolidated similar use-specific standards that City staff have interpreted as the same standards. The standards reflects staff's reading of the use specific standards in the current zoning ordinance.

<sup>120</sup> Text from sec. 5:7, except that provisions (3) and (4) were relocated to Article VIII Definitions. Headings have been added for clarity.

<sup>121</sup> Revised for clarity and to reflect current practice. Current code lists only the R4 district.

**a. Required Parking**

Two off-street Parking Spaces must be provided. Additional Parking Spaces may be required by the Planning Commission if any of the following conditions are met:

- i) The property is located more than 300 feet from a bus stop.
- ii) Street parking available for visitor parking is limited.
- iii) The Applicant intends to park more than two vehicles regularly on the Site and there is limited area available for tandem parking in a Driveway.

**b. Parking Plan**

In order for the Planning Commission to determine if adequate parking will be provided, the Applicant must submit a plan indicating the location of proposed off-street parking and an analysis of public parking and transit facilities provided within a 300-foot radius of the parcel.

**c. Deferment of Required Parking**

The Planning Commission may defer the provision of up to 40% of the required spaces if the required spaces are shown on the approved plan for the permit. If the Building Official determines that some or all of the deferred Parking Spaces are needed, these spaces must be installed. Any Person aggrieved by the Building official's determination may appeal as provided in Section 5.29.11.

**d. Limited to Approved Functional Family Type**

The permit shall apply only to the Functional Family type which obtained the permit and shall be limited to the number of Persons specified in the permit.

**e. Contact Person**

A contact ~~person~~ Person shall be provided who will act as head of household in relating to the City.

**4. Variance for Handicapped Person**

The Zoning Board of Appeals may grant a variance from the standards of this section if it is reasonably necessary to give a handicapped ~~person~~ Person (as defined in 42 USC Section 3602) equal opportunity to use and enjoy a dwelling.

**5. Exceptions**

The occupancy limits of this section do not apply to Group Housing, Fraternity or Sorority Houses, Student Cooperative Housing, Emergency Shelters, or convalescent homes.<sup>122</sup>

<sup>122</sup>Revised wording to reflect new use titles.

**B. Dwelling, Assisted Living****1. R4A, R4B, R4C, R4D, R4E Districts**

Subject to providing a minimum of 400 square feet of Lot Area per occupant.

**B.C. Dwelling, Single-Family****1. All Zoning Districts ~~Except R1E~~**

No Person shall park or permit the parking of a House Trailer for occupancy on any private property within the City, except in an authorized trailer camp licensed under the provisions of Act 143, Public Acts of 1939, State of Michigan, as amended.

**2. R1E District**

The Principal Building on the Lot shall not exceed 2,000 square feet of Floor Area.<sup>123</sup>

**C.D. Dwelling, Multi-Family****1. RE District<sup>124</sup>**

Multi-Family Dwellings are subject to the density and dimensional standards of the R4B district, in accordance with Table 5.17-3.

**D.E. Fraternities, Sororities, and Student Cooperative Housing****1. R2B and Multiple-Family Zoning Districts**

In addition to the Special Exception Use standards in Section 5.29.5, the following standards apply:

- a. A resident manager shall be employed or appointed. For purposes of this section, a resident manager is one who lives on-site, serving in a regular or full-time capacity.
- b. A minimum Lot size of 8,500 square feet subject to a minimum of 350 square feet of Lot Area per occupant shall be provided.
- c. The Floor Area of the Principal Building shall have a minimum of 5,000 square feet. Single or Two-Family Dwelling containing 5,000 square feet or less <sup>125</sup>may not be converted to a Fraternity, a Sorority, or Student Cooperative Housing.
- d. A Fraternity, Sorority, or Student Cooperative Housing adjacent to a Single- or Two-Family Dwelling shall have a hedge, berm, Fence, or wall, forming a continuous screen at least six feet high along the entire length of each Lot line where the adjacency with the Single- or Two-

<sup>123</sup> Requirement added by ORD-10-34 approved Jan. 3, 2011. Change from single-family dwelling to principal building for coordination with consolidation definition of floor area.

<sup>124</sup> Text per ORD-10-34-Ch.55.

<sup>125</sup> Reference to April 9, 1984 (and all references to specific dates of adoption of different zoning amendments) has been removed, and nonconformity regulations have been made more general so that they cover all nonconformities regardless of the date on which they would have become nonconforming.

Family Dwelling occurs, except in the Front Setback Area or as restricted by other ordinance. Screening that continues into the Required Front Setback Area shall be consistent with Section 5.26 Fences.

- e. Density increases and other modifications to existing Fraternities, Sororities, and Student Cooperative Housing may be allowed pursuant to Section 5.30 except as provided in Subsection f below.
- f. Kitchen facilities, common areas for meeting and social space, or handicap accessibility may be expanded by 10% of the Floor Area or 1,000 square feet, whichever is less, without securing or modifying a Special Exception Use permit if current parking ordinance standards for Fraternities, Sororities, and Student Cooperatives are met.

### **E.F. Group Housing<sup>126</sup>**

#### **1. R2B and R4A Districts**

In addition to the Special Exception Use standards in Section 5.29.5, the following standards apply:

- a. A resident manager must be employed or appointed if the owner does not reside at the Principal Building .
- b. The Floor Area of the Principal Building must exceed 5,000 square feet.
- c. Common kitchen facilities, including a dining area or room, must be provided within the Principal Building.

### **F.G. Guest House**

A minimum of 400 square feet of Lot Area per occupant shall be provided.<sup>127</sup>

## **5.16.2 Public/Institutional Uses**

### **A. Adult Day Care Center**

#### **1. All Single-Family and Two-Family Residential Zoning Districts**

In addition to the Special Exception Use standards in Section 5.29.5, the following standards apply:

- a. The parcel must have a minimum of 7,500 square feet of Lot Area.
- b. One off-street Parking Space for each caregiver required to staff the facility at its state licensed capacity must be provided.
- c. Adequate off-street or on-street Parking Spaces available for drop off and pick up use within 250 feet of the Adult Day Care Center parcel shall be provided on the site plan. The number of drop-off and pick-up spaces

<sup>126</sup> Revised to match new use title.

<sup>127</sup> Added by Ord-10-32.

shall be two plus one additional space for each 20 adults that the facility is licensed to care for.

- d. Occupancy may not be increased without amending a previously approved Special Exception Use permit.

## **B. Child Care Center**

### **1. All Single-Family and Two-Family Residential Zoning Districts**

In addition to the Special Exception Use standards in Section 5.29.5, the following standards apply:

- a. The parcel must have a minimum of 7,500 square feet of Lot Area.
- b. One off-street Parking Space for each caregiver required to staff the facility at its state licensed capacity must be provided.
- c. Adequate off-street or on-street Parking Spaces available for drop off and pick up use within 250 feet of the Child Care Center parcel must be provided on the site plan. The number of drop-off and pick-up spaces shall be two plus one additional space for each 20 children the facility is licensed to care for.
- d. Occupancy may not be increased without amending a previously approved Special Exception Use permit.

## **C. Club Headquarters or Community Center**

### **1. R2B and Multiple-Family Zoning Districts**

In addition to the Special Exception Use standards in Section 5.29.5, the following standards shall apply:

- a. The facility shall only be used by members and guests.
- b. Lodging is not permitted.
- c. The service of meals, except as necessary for club activities, is prohibited.

## **D. Hospital**

### **1. R4B, R4C, R4D, R4E Districts**

In addition to the Special Exception Use standards in Section 5.29.5, the following standards apply:

- a. Minimum of 1,500 square feet Lot Area per bed.

## **E. Institutions of Higher Learning, Private**

### **1. All Residential Zoning Districts**

In addition to the Special Exception Use standards in Section 5.29.5, the following standards apply:

- a. The Lot must contain at least 20 acres.

- b. No Building or other use of land, except landscaped areas, shall be situated within 100 feet of any adjacent residential property.

#### **F. Nursing Care Facility**

##### **1. R4A, R4B, R4C, ~~R4D~~ Multiple-Family, O, R5 Districts**

- a. At least 400 square feet of Lot Area per occupant must be provided.

##### **2. C1 District**

At least 400 square feet of Lot Area per occupant must be provided.

#### **G. Park, Recreation, and Open Space**

No Structure shall be erected or maintained upon dedicated park land that is not customarily incidental to the Principal Use of the land.

### **5.16.3 Commercial Uses**

#### **A. Adult Entertainment Business<sup>128</sup>**

##### **1. Locations of Adult Entertainment Businesses**

An Adult Entertainment Business shall<sup>129</sup> be located only in accordance with the following restrictions:

- a. No Adult Entertainment Business shall be located on a Lot within 700 feet of (i) any Residential Zoning District, or (ii) Planned Unit Developments with residential uses, or (iii) land zoned residential in a township.
- b. No Adult Entertainment Business shall be established within 700 feet of another Adult Entertainment Business.

##### **2. Use Regulations**

- a. No Person shall reside in or permit any Person to reside in the Premises of an Adult Entertainment Business.
- b. No Person shall operate an Adult Personal Service Business unless there is conspicuously posted in each room where such Business is carried on a notice indicating the prices for all services performed by said Business. No Person operating or working at such a place of Business shall solicit or accept any fees except those indicated on any such notice.
- c. No Person operating an Adult Entertainment Business shall permit it to be used for acts of prostitution or to be frequented by known prostitutes who have been convicted of the act of prostitution within the last 24 months and any customers convicted of being customers of prostitutes within the last 24 months.

<sup>128</sup> Standards carried forward from Section 5:50.

<sup>129</sup> Revised from "may" in current code.

- d. No Person shall operate an Adult Personal Service Business without obtaining a current code compliance license. Licenses shall be issued by the City Administrator following an inspection to determine compliance with City Code and upon payment of a license fee as set by resolution of City Council. Such a license shall be subject to the regulations contained in Chapter 76 of Title VII of this Code.
- e. No Person operating an Adult Entertainment Business shall permit any Person under the age of 18 to be on the Premises either as an employee or customer.
- f. No Person shall become the lessee or sublessee of any property for the purpose of using said property for an Adult Entertainment Business without the express written permission of the owner of the property for such use.
- g. No lessee or sublessee of any property shall convert that property from any other use to an Adult Entertainment Business without the express written permission of the owner of the property for such use.

## **B. Artist Studio**

### **1. O District**

No more than 25% of the total Floor Area of the studio shall be used for the display and sale of articles that are produced in the studio.

## **C. Automobile, Truck, Construction Equipment Repair**

### **1. C2B District**

Storage and Repair of Automobiles, Trucks, and Construction Equipment must be located in an enclosed Building.<sup>130</sup>

## **D. General Entertainment**

### **1. Theaters, Enclosed**

#### **a. C1B District**

The total seating capacity shall not exceed 600 seats.

#### **2. Pinball Parlor**

Allowed only in the C1A District.

## **E. Fueling Station**

A Fueling Station shall employ berms or 30 inch high opaque walls between the Vehicular Use Area and the Public Right-of-Way unless the landscape buffer strip provided is 15 feet in width or greater.<sup>131</sup> If the landscape buffer strip provided is 15 feet in width, then a landform berm, hedge and/or dense planting combination at least 30 inches in total height is acceptable. If a wall is used, it shall be set back at

<sup>130</sup> Enclosed Building requirement has been added.

<sup>131</sup> Replaces conflicting provision in landscaping section that did not allow berms as an option.



least four feet from the Lot Line with one 30 inch high shrub provided for every four linear feet, planted on the street side of the wall. The Site design, planting scheme, and materials used in these areas shall comply with the requirements set forth in this chapter.<sup>132</sup>

## **F. Indoor Recreation**

### **1. C1 District**

Special Exception Use approval pursuant to Section 5.29.5 shall be required when adjacent to any R district.

### **2. C1A, C1A/R, C1B Districts**

Special Exception Use approval pursuant to Section 5.29.5 shall be required when adjacent to any R district.

## **G. Medical Marijuana Facility<sup>133</sup>**

### **1. Intent**

- a. It is the intent of this section to provide appropriate locations and reasonable restrictions for Medical Marijuana facilities allowed by the Medical Marijuana Facilities Licensing Act, MCL 333.2701 et seq. This is a unique land use with ramifications not addressed by more traditional zoning district regulations.
- b. It is the intent of this section to provide appropriate locations and reasonable restrictions for the cultivation and transfer of Marijuana allowed by the Michigan Medical Marijuana Act, MCL 333.26421 et seq. This is a unique land use with ramifications not addressed by more traditional zoning district and Home Occupation regulations..
- c. It is the intent of this section to protect the health, safety, and general welfare of Persons and property by limiting land uses related to Marijuana to districts that are compatible with such uses. Additional regulations in this section are intended to provide reasonable restrictions within districts so that these uses do not compromise the health, safety, and general welfare of Persons in the district, or other uses allowed in each district.

### **2. Words and Phrases**

Words and phrases contained in the Michigan Medical Marijuana Facilities Licensing Act (“MMFLA”), MCL 333.2701 et seq., or the Medical Marijuana Act (“MMMA”), MCL 333.26421 et seq., shall have the same meanings in this Code. Article VIII of this chapter contains some words and phrases that are defined in the MMFLA or the MMMA, but if any definition in Article VIII conflicts with the definition in the MMFLA or MMMA, then the definition in the MMFLA or MMMA shall apply.

<sup>132</sup> Added in Ord. 11-09.

<sup>133</sup> From Ord. 10-37; revised per Ord. 17-21.

**3. Additional Medical Marijuana Facility Location Restrictions<sup>134</sup>**

- a. A Medical Marijuana Provisioning Center may only be located within a PUD in compliance with the standards in this Section 5.16.3G and where retail use is permitted in the PUD Supplemental Regulations.
- b. No Lot containing a Medical Marijuana Provisioning Center shall be located within 600 feet of a Lot on which another Medical Marijuana Provisioning Center is located.
- c. A maximum of one State Operating License shall be utilized per Lot.
  - i) Exceptions: In the M1, M1A and M2 districts, a maximum of five Marijuana Facilities with State Operating Licenses may co-locate on a single Lot, and in the RE and ORL districts, a maximum of two Marijuana Facilities with State Operating Licenses may co-locate on a single Lot. No two facilities of the same type of Medical Marijuana use (Grower, Processor, Secure Transporter, Provisioning Center as accessory Retail Sales, and Safety Compliance Facility) may be located on the same Lot.
- d. No Lot containing a Medical Marijuana Provisioning Center, Grower, or Processor shall be located within 1,000 feet of a Lot on which a Public School or Private School, but excluding dance or art schools, is located.

**4. Standards for Medical Marijuana Home Occupations**

Cultivation or other Medical Use of Marijuana as a Medical Marijuana Home Occupation in Single-Family Dwellings.

- a. Medical Marijuana Home Occupations are not permitted in Two-Family or other Multiple-Family Dwellings.
- b. In a Single-Family dwelling in any zoning district, no more than 72 Marijuana plants shall be grown on the Premises, regardless of the number of registered Primary Caregivers and/or registered Qualifying Patients residing in the dwelling. The Principal Use of the Single-Family Dwelling shall be a Residential Occupancy and shall be in actual use as such.
- c. All other performance standards for Home Occupations as provided in Section 5.16.6H shall be required.
- d. A zoning permit shall be required, consistent with Section 5.29.1.

**5. Standards for Medical Marijuana Use or Cultivation<sup>135</sup>**

When the cultivation or other Medical Use of Marijuana in Dwelling Units is not a Medical Marijuana Home Occupation, it shall comply with the following standards.

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<sup>134</sup> Added per Ord. 17-21.

<sup>135</sup> Added per Ord. 10-37.

- a. The Principal Use of the Dwelling Unit shall be Residential Occupancy and shall be in actual use as such.
  - b. No more than 12 plants for each registered Qualifying Patient who resides in the Dwelling Unit shall be grown.
  - c. No Equipment or process shall be used in cultivation which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property boundary.
  - d. All aspects of the Medical Use of Marijuana shall comply at all times with the provisions of the MMMA.
6. Medical Marijuana Facility Regulations<sup>136</sup>
- a. No Person shall reside in or permit any Person to reside in a Marijuana Facility, except as allowed in the M1 and M2 zoning districts.
  - b. No smoking, inhalation, or consumption of Marijuana shall take place on the Premises of any Marijuana Facility.
  - c. All activities of a Marijuana Facility shall be conducted indoors.
  - d. No equipment or process shall be used in any Marijuana Facility which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the Premises.
7. Special Exception Use Regulations for Medical Marijuana Facilities<sup>137</sup>
- a. In addition to the requirements in Section 5.29.5, the following information shall be provided to the Planning Commission for consideration of an application for Special Exception use. Additional information may be requested by staff or the Planning Commission.
    - i) For Provisioning Centers, Growers, and Processors
      - (a) An operations statement that describes, but is not limited to, the life-cycle of Marijuana and Marijuana-Infused Products entering, stored on, grown, dried, and leaving the site. This may include how deliveries are handled, methods of storage, cash handling, a business floor plan, or other pertinent information.
      - (b) A detailed safety and security plan that addresses Marijuana, customers, employees, and neighboring residents, offices, or businesses.
      - (c) A description of methods to be used to contain all odors within the building.
      - (d) A waste disposal plan specific to Marijuana, Marijuana plant waste, and Marijuana-Infused Products.
      - (e) Days and hours of operation.

<sup>136</sup> Added per Ord. 17-21.

<sup>137</sup> Added per Ord. 17-21, with references to Chapter 57 replaced by "this ordinance", since content of Chapter 57 has been integrated into this ordinance.

- ii) For Growers
  - (a) A water/wastewater statement that describes the expected volume of water used and any on-site wastewater treatment, permits required for wastewater disposal, and the expected volume of wastewater based on the maximum number of plants allowed in that facility's Grower class.
- b. A Site Plan that meets the requirements of this chapter shall be provided. For sites that require City Council approval of a Site Plan, approval of the Special Exception use by the Planning Commission shall be contingent upon Site Plan approval by City Council.
- c. An application for a Medical Marijuana Provisioning Center in the M1, M1A, or M2 zoning district may only be approved if the Provisioning Center is incidental to the Principal Activity or Principal Use and the Floor Area devoted to Provisioning Center does not exceed 10% of the Floor Area of the Site.

## H. Outdoor Recreation

### 1. All Residential Zoning Districts

- a. The only Outdoor Recreation use allowed in residential zoning districts are accessory Outdoor Residential Recreation Facilities, subject to the Special Exception Use standards in Section 5.29.5 and the following standards.<sup>138</sup> Membership shall be open to residents of the subdivision or residential development in which the Outdoor Residential Recreation Facility is located.
- b. Any permanent addition, other than a Fence, to an outdoor recreation use, including an accessory Outdoor Residential Recreational facility shall constitute a modification of the use that requires Special Exception Use approval.
- c. For purposes of this section, any new accessory Outdoor Residential Recreational facility or permanent addition to an existing accessory Outdoor Residential Recreational facility will require a scaled drawing showing the existing and proposed Structures and improvements on the Site, instead of a site plan, as part of the Special Exception Use application.
- d. A Conflicting Land Use Buffer per Section 5.20.4 shall be provided to screen the facility from adjacent residential properties.
- e. One off-street Parking Space per 200 square feet of Floor Area of the club Building shall be provided.

<sup>138</sup> Criteria below were simplified to remove potential inconsistencies with Nonconforming Use and Structure provisions.

**2. C1, C1A, C1A/R, C1B Districts**

Special Exception Use approval pursuant to Section 5.29.5 shall be required when adjacent to any Residential District.

**3. AG District**

**Special Exception Use approval is required for any Outdoor Recreation that is not a golf course, park, or athletic field.**

**3.4. Outdoor Theatre**

Special Exception Use approval pursuant to Section 5.29.5 is required in all districts.

**I. Outdoor Sales, Permanent**

Only permitted if the sales or display is in an area specifically designated for outdoor sales and display as shown on an approved site plan.

**J. Parking Lot or Structure****1. D1 and D2 Districts**

- a. In the D1 district, an off-street Parking Structure is not permitted at the level of the adjacent street unless separated from the street by a portion of the Building that is occupied by a permitted use or uses, with the exception of the portion of a Parking Structure that provides vehicular or pedestrian access to the street. Permitted uses shall be located within the Building and have a minimum depth of 25 feet from the exterior of the front wall. On Corner Lots, this requirement shall apply to Lot frontages on primary streets, as defined in Section 5.17.6B.1.a. If none of the Street Frontages are a primary street, an off-street Parking Structure must be separated from at least one Street Frontage by a portion of the Building that is occupied by a permitted use, with the exception of the portion of a Parking Structure that provides access to the street.
- b. In the D2 district, an off-street Parking Structure shall be located a minimum of ten feet from the Front Lot Line at the level of the adjacent street and provide a landscape buffer or screening wall between the Building and the Front Lot Line.
- c. In the D1 and D2 districts, any wall of an off-street Parking Structure that abuts a residential zoning district shall not contain openings, or if it contains openings shall be separated from the Lot Line by a Building other than a Parking Structure occupied by a permitted use, or uses.

**K. Personal Services****1. C1A, C1A/R, C1B Districts**

Special Exception Use approval pursuant to Section 5.29.5 shall be required when adjacent to any Residential District.

**2. O District**

Beauty Salons are the only permitted Personal Services in this zoning district. Incidental Sales of products used in the salon shall occupy no more than 25% of the total Floor Area.

**L. Restaurant, Bar, Food Service****1. C1 District**

Each Restaurant, Bar, and Food Service use shall have a maximum seating capacity of 50 seats.

**M. Veterinary, Kennel, and Animal Boarding<sup>139</sup>**

All facilities must be completely enclosed in a soundproof Building in such a way as to produce no objectionable noises or odors at the Lot Lines.

**5.16.4 Office/Research Uses****A. Laboratory****1. RE District**

Permitted for the research, development, and testing of, including but not limited to medical, optical, dental, and pharmaceutical products.

**2. ORL District**

Permitted for the research, development, and testing of medical, optical, dental, and pharmaceutical products.

**B. Nonprofit Corporations****1. All Residential Zoning Districts<sup>140</sup>**

- a. Parcels must have a minimum of 80,000 square feet of Lot Area.
- b. The Principal Building must contain a minimum of 3,000 square feet of Floor Area, excluding basements or cellars, constructed prior to January 1, 1988.
- c. There shall be no more than one employee for each 300 square feet of Floor Area, constructed prior to January 1, 1988, excluding basements or cellars.
- d. Off-street parking in the amount of one space for each 300 square feet of Floor Area, constructed prior to January 1, 1988, excluding basements or cellars, shall be provided in accordance with the standards of Section 5.19 ~~5.18~~.
- e. Signage shall be limited to one identification Sign of no greater than 25 square feet in accordance with the provisions of Section 5.24 .

<sup>139</sup> From current section 5:10.12.

<sup>140</sup> Provision revised to apply to all these uses, not just those established before 1981, to reflect current practice.

- f. One Dwelling Unit within the existing Structure may be approved as part of this Special Exception Use approval.
- g. The use will result in preservation of Open Space and/or historic Sites or Structures.
- h. The nature of the use will not be of such intensity as to disrupt the peaceful enjoyment of the neighborhood; specifically, the use shall not generate more than 20 Office-related vehicle trips (excluding employee related trips) in any one day from the Site.
- i. No Building or other use of land, except landscaped areas, shall be situated within 30 feet of any adjacent residential property.

### C. Office, General and Medical/Dental

#### 1. RE District

Limited to Executive, Administrative, and professional, including engineering and engineering sales; medical and Dental Offices are not permitted.

#### 2. ORL District

Limited to Office, General. Office, Medical, or Dental is not allowed in this district.

### 5.16.5 Industrial Uses

#### A. Heavy Manufacturing

- 1. Heavy Manufacturing uses shall emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation and odor.
- 2. Shall be so designed, constructed and operated that there is no production of noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat or glare discernible at the Lot Lines.
- 3. No more than 10% of Floor Area may be used for display and Retail Sales of the products that are assembled, manufactured, fabricated, or processed by the principal use.
- 4. All area occupied by outdoor storage of goods or materials used in the assembly, manufacturing, fabrication, or processing shall not exceed 25% the Floor Area.

#### B. Light Manufacturing

##### 1. M1 and M1A Districts

- a. Limited to a low concentration, external effects are minimized and permitted uses are limited to those which are adapted to an environment of this nature.



- b. Excludes uses which would have a detrimental effect upon the orderly Development and functioning of the district.
- c. Light Manufacturing uses shall emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation.
- d. Shall be so designed, constructed and operated that there is no production of noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat or glare discernible at the Lot Lines.
- e. All area occupied by outdoor storage of goods or materials used in the assembly, manufacturing, fabrication, or processing shall not exceed 25% of the Floor Area.
- f. No more than 10% of Floor Area may be used for display and Retail Sales of the products that are assembled, manufactured, fabricated, or processed by the principal use.

### C. Oil and Gas Wells<sup>141</sup>

The locating, sinking, drilling, casing, deepening, or operating of Oil Wells, Gas Wells, and Oil and Gas Wells and test holes for the location of natural crude oil or natural dry gas, or both, is prohibited throughout the City.

### D. Wireless Communications Facilities<sup>142</sup>

#### 1. All Districts

##### a. General Standards

- i) To assist the City in accommodating Wireless Communication Facilities, each Applicant shall provide an inventory of its existing and planned Wireless Communications Facilities that are within the City and within one mile of the City's boundaries, including their location, height, and design. The City, by sharing such information with a third party, does not in any way represent or warrant that such Sites are available or suitable.
- ii) Wireless Communications Antennas shall comply with applicable federal standards for non-ionizing electromagnetic radiation, as they may from time to time be amended. Documentation shall be submitted to the PDSU verifying compliance with the FCC standards prior to the issuance of any permit.
- iii) Each Applicant shall exercise due diligence to determine the availability of a location for its Wireless Communications Antenna on all existing Towers, approved Wireless Communications Towers, and other suitable Structures within a half-mile radius of the

<sup>141</sup> Moved from current Chapter 56.

<sup>142</sup> Standards from Section 5:82. 8,000 sq. ft. size limit in the C-1 district was moved to Table 5:17-4.



proposed Site. Due diligence shall consist of documented evidence that owners of all existing or approved Towers, Wireless Communications Towers, or other suitable Structures were contacted by certified mail or overnight courier, and that these Sites cannot accommodate the requested Wireless Communications Antennas for reasons other than economic reasons. Applicants shall provide detailed radio frequency (RF) coverage and capacity maps for all proposed wireless service providers for the proposed Site, showing coverage and capacity of the carriers' surrounding network with both existing and planned Sites. The Planning Commission may deny a proposed wireless communication facility if it determines that another existing or approved Site can reasonably accommodate the proposed facility and provide generally equivalent service.

- iv) Certification from the Ann Arbor Airport Manager that the height of a proposed Wireless Communications Tower will not interfere with airport operations is required from Applicant at the time of site plan submission.
- v) Unless otherwise specifically approved by the Planning Commission, all Wireless Communications Towers shall be monopoles, designed for co-location, which is the provision of more than one antenna array, usually belonging to more than one licensed carrier, on a single monopole. Wireless Communications Towers 125 feet in height or less shall be designed for co-location of at least two antenna arrays or carriers. Wireless Communications Towers greater than 125 feet or less than or equal to 155 feet in height shall be designed for co-location of at least three antenna arrays or carriers.
- vi) No Wireless Communications Tower shall be greater than 155 feet in height.<sup>143</sup> Wireless Communications Towers greater than 155 feet in height shall require a variance as specified elsewhere in Section 5.29.12 and the Wireless Communications Tower shall be designed for co-location of at least four antenna arrays or carriers.
- vii) Sites proposed for Wireless Communications Facilities shall not have a separate Curb Cut access proposed for the Towers unless no reasonable alternative exists. Such on-site Driveways need not be paved, but must have a stable, improved surface adequate to support occasional maintenance vehicles, and comply with all regulations pertaining to Curb Cuts provided in this chapter.
- viii) The Right-of-Way buffer requirement of Section 5.20 must be complied with if the lower portion of the Wireless Communications Tower is visible from the Public Right-of-Way, unless the lower 30 feet of the Wireless Communications Tower is adequately screened by an existing Building.

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<sup>143</sup> New provision.

- ix) Vinyl-coated Security fencing, a minimum of six feet tall and adequate landscaping around the base of the Wireless Communications Tower and any equipment Buildings or cabinets is required unless an opaque decorative security wall, a minimum of six feet tall, is provided. Barbed wire or razor wire is not permitted. Landscaping shall consist of a combination of deciduous and evergreen landscape materials that meet the screening materials standards in Section 5.20 .
- x) Signs, except for emergency notification of the owner of the facility, are not permitted on Wireless Communications Facilities.
- xi) Artificial illumination of Wireless Communications Towers is not permitted unless required by federal or state regulations or to protect public safety, as determined by the Planning Commission. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to surrounding properties.
- xii) Wireless Communications Towers shall be a low or no maintenance non-contrasting blue or gray in order to be as unobtrusive as possible, unless another color or design is deemed by the Planning Commission to be less obtrusive under the existing circumstances.
- xiii) No Natural Feature may be removed or disturbed to accommodate the placement of a Wireless Communications Facility.
- xiv) All transmission lines related to and serving any antenna or facility shall be placed underground.
- xv) Wireless Communications Facilities may be placed on Sites with legally Nonconforming Structures or uses without being considered to be expansions of such nonconformities.

**b. Placement Standards**

- i) Wireless Communications Towers shall not be located in a Front Yard, provided, however, that a Wireless Communications Tower may be located along a freeway, as long as the Wireless Communications Tower is set back from the edge of the Right-of-Way a minimum of half the height of the Wireless Communications Tower. Tower height includes the antenna.
- ii) Setbacks shall be measured from Lot Lines to the base of the Wireless Communications Tower.
- iii) The minimum required side setback shall be that side setback specified in Tables 5:17-1 through 5:17-5 and Section 5.18 as applicable to that zoning district plus one foot for each five feet, or fraction of five feet, of Wireless Communications Tower height.
- iv) The minimum required rear setback shall be that rear setback specified in Tables 5:17-1 through 5:17-5 and Section 5.18 as applicable to that zoning district plus one foot for each ten feet, or fraction of ten feet, of Wireless Communications Tower height.

- v) On any Site where side or Rear Lot Lines border residentially zoned property, the side or rear setback shall be equal to the Wireless Communications Tower height and a conflicting land use buffer, as specified in Section 5.20.4, shall be required adjacent to the residential Lot Line.
- vi) Accessory Structures and equipment, if any, shall meet setbacks for accessory Structures in the district or ten feet, whichever is greater.

**c. Compliance**

- i) Towers shall meet the City Building Code and other applicable structural standards. Prior to construction, a licensed professional structural engineer's certificate certifying that the Tower meets all applicable Building Code and other structural standards shall be provided to the Building Official.
- ii) A cash bond or certified check in an amount established by resolution of City Council upon recommendation of the City Administrator shall be posted at the time of Building permit application to cover the cost of removal and shall be maintained for the life of the Tower.
- iii) Abandoned Wireless Communications Towers must be removed by the owner of the Tower and/or the operator of the Tower. Any Wireless Communications Tower that does not have at least one antenna operating for a continuous period of 180 days shall be deemed abandoned. Determination of the date of abandonment shall be made by the Planning Manager, who shall have the right to request documentation or affidavits from the Tower owner or operator of the Tower regarding Tower usage and other pertinent information. Failure or refusal for any reason by the Tower owner or operator of the Tower to respond within 30 days to such a request shall constitute prima facie evidence that the Tower has been abandoned. Upon determination of abandonment and the appropriate notice thereof to the Tower owner and/or operator of the Tower, the Tower owner and/or operator of the Tower shall have 120 days within which to either reactivate the use of the Tower, or dismantle and remove the Tower and footings to five feet below Grade. The Tower owner and/or operator of the Tower shall restore the property to the condition which existed prior to the construction of the Tower.
- iv) If the Tower owner and/or operator of the Tower fail to remove the Tower within the appropriate time period, the City shall have the right to remove the Tower and collect on the cash bond or certified check on file with the City. The City shall bill the Tower owner and/or operator of the Tower all the costs and/or expenses associated with the removal of the Tower in excess of the cash bond and/or certified check. If the Tower owner and/or operator fails to pay the costs and/or expenses associated with the Tower removal which are in excess of the cash bond and/or certified check within

45 days from the date of the bill, then, in addition to any other remedy in law or in equity, the City shall have the right to place a lien on the property for all costs and expenses associated with the removal of the Tower, less the amount of the cash bond or certified check which is on file with the City.

## 5.16.6 Accessory Uses and Structures

### A. All Accessory Uses and Structures<sup>144</sup>

#### 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<sup>7</sup> or Buildings.

#### 2. In R-1, R-2, R-3, R-4, R-5, R-6, and P Zoning Districts

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<sup>145</sup> shall not occupy any portion of the required Side Setback Area.

#### 3. Area, Height and Placement Regulations In All Other 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 5.17 Area, Height and Placement Regulations and 5.18

<sup>144</sup> This text has been relocated from another section of the use-specific standards and placed here as the first standard in the Accessory Use standards because it is a general standard that applies to each Accessory Use.

<sup>145</sup> Language has been clarified to refer to all attached Accessory Buildings. Current language reads garages and carports.

Special Dimensional and Site Layout Standards, ~~which may differ from those applicable to the primary Building.~~

## B. Dish Antenna<sup>146</sup>

### 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 5.16.6B.2.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.<sup>147</sup>
- 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.

<sup>146</sup> Text from Sec. 5:81.

<sup>147</sup> Text simplified based on new Corner Lot provisions.

#### 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 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.<sup>148</sup>

#### 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 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.<sup>149</sup>

#### 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.<sup>150</sup>

### D. Accessory Dwelling Unit (ADU)<sup>151</sup>

1. An ADU is permitted on a parcel that has one Single-Family Dwelling as the permitted principal use.

<sup>148</sup> Text added per ORD-14-06.

<sup>149</sup> Text added per ORD-14-06.

<sup>150</sup> Text added per ORD-14-06.

<sup>151</sup> Text replaced per ORD-16-16.



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~~ Section 5.16.1A except that only two unrelated ~~persons~~ 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~~ Persons residing in the primary Dwelling Unit and the ADU combined shall not exceed four ~~persons~~ 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  $\frac{1}{4}$  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 Front Yard setback.
9. An ADU or Single-Family Dwelling that is not owner-occupied shall be subject to periodic housing inspections as required by ~~section~~ 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~~ Section 5.16.6D.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~~ Person's family.

**F. Family Day Care Home****1. All Residential Zoning Districts**

Must be licensed by the State of Michigan Department of ~~Human Services~~ 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 ~~Human Services~~ 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.
- 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<sup>152</sup>.
- 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~~ Sidewalk or ~~street~~ Street.

### 2. R5 District

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

### 3. ORL District<sup>153</sup>

- 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.

<sup>152</sup> Language has been modernized. For example, dressmaker has been changed to tailor, and stringed instrument instruction has been changed to musical instrument instruction.

<sup>153</sup> Use standards are from "Incidental Sales and Services" that was converted from a Principal Use to an Accessory Use. Content consolidated for clarity.

- 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.<sup>154</sup>

#### **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.<sup>155</sup>

#### **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;

<sup>154</sup> This use standard relocated from "Outdoor sales and display" that was formerly in the Principal Use category.

<sup>155</sup> Revised for clarity.

- 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<sup>156</sup>**

In the R3 and R4 zoning districts, Lots that contain a Single-Family Dwelling use are limited to a Personal-Scale SES.

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

1. In the R3 and R4 zoning districts, Lots that contain a Single-family Dwelling use are limited to a Personal Scale SES.
2. Application
  - a. A Personal-Scale SES requires a Zoning Permit, and additional permits may be required as stated in Section 5.16.6O.3.b below. An application for a Zoning Permit shall include the following additional information:
    - i) Renderings and/or specifications of the proposed Solar Energy System.
    - ii) A description of the screening to be provided for Ground-Mounted SES.
3. **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.

#### **4. Ground-Mounted SES**

Ground-Mounted, Personal-Scale SES shall comply with all regulations in Section 5.16.6.A.Accessory Uses and Structures except may not be located in a Front Yard. :

#### **5. Building-Mounted SES**

Building-Mounted Personal-Scale SES shall comply with the following additional standards:

- a. A Building-Mounted SES shall comply with Area, Height, and Placement requirements for Principal Building or Accessory Building standards, as applicable to placement of SES.

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

The provisions of Section 5.16.6 shall apply as applicable to accessory antennas rather than freestanding Towers.

<sup>156</sup> Standards for Solar Energy System and Solar Energy System, Personal-Scale added from Ord. 18-01.

### 5.16.7 Temporary Uses

#### A. Christmas Tree Sales

1. A zoning permit pursuant to Section 5.29.1 is required.
2. Only permitted in residential zoning districts on an approved Religious Assembly, school, or community center Site.
3. Shall not be located in any Required Setback Area or required landscape area.
4. Permitted from Thanksgiving Day to Christmas Day.

#### B. Outdoor Sales, Temporary by Others

1. Special Exception Use approval pursuant to Section 5.29.5 is required.
2. Limited to Retail Sales of General Merchandise by a Person other than the Principal Users of the Site and in accordance with any conditions of the Special Exception Use permit.
3. If approved to occur on more than one occasion, all occasions after the first instance shall require a zoning permit pursuant to Section 5.29.1.

#### C. Special Event Sales

The City Council may, by resolution, designate certain dates and locations as special events Temporary Outdoor Sales areas. ~~Said~~The resolution shall include conditions and standards of conduct to be in force for outdoor sales and displays on private property. A property owner, who wishes to conduct outdoor sales and displays on his or her private property, as provided for in the City Council resolution, shall first apply for and receive a zoning permit by the date designated in the resolution. The conditions and standards contained in the resolution shall be conditions of the zoning permit issued to a property owner. Failure to comply with the conditions set in the resolution shall be a violation of this ordinance section and shall be grounds to revoke all permits granted to the property owner for the duration of the special event identified in the resolution.<sup>157</sup>

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<sup>157</sup> Use standard from "Temporary Outdoor" that has been separated into various accessory and temporary activities.

# Article IV: Development Standards

## 5.17 Area, Height and Placement Regulations

### 5.17.1 Intent<sup>158</sup>

The intent of this section is to provide clear and consistent area, height, and placement regulations, collectively known as dimensional standards, for construction in the City. The standards are intended to require the appropriate placement of Buildings that result in improved non-motorized access, adequate Open Space, and the efficient use of land and infrastructure consistent with principles of sustainable land use practices described in adopted City master plans. Maximum setback regulations are intended to result in the placement of Buildings sufficiently close to the Public Right-of-Way to better provide access for pedestrians, bicyclists and public transit passengers.

### 5.17.2 General Requirements

Except as otherwise provided in this chapter, regulations governing Lot Area, Lot Width, Lot Area per Dwelling Unit, Floor Area Ratio, Open Space, Active Open Space, Required Setback Lines, Building Height, and other pertinent factors are as shown in Tables 5:17-1 through 5:17-5 and Section 5.18 .

### 5.17.3 Residential Zoning Districts

#### A. Determination of Number of Dwelling Units

The determination of the permitted number of Dwelling Units in the "R" Residential zoning districts shall be made as follows: The Lot Area of the parcel in question is divided by the "minimum Lot Area per Dwelling Unit" for the type of unit desired (or by the average for a variety of types) with the quotient being the number of Dwelling Units permitted. Lot Area does not include the area of dedicated or proposed Public Right-of-Way and parkland, or the area of private street easements in the R1 and R2 districts.

#### B. Dimensional Table for Residential Zoning Districts

Dimensional standards for Residential Zoning Districts provided in Tables 5:17-1, 5-17-2, and 5.17-3.<sup>159</sup>

<sup>158</sup> Text per ORD-10-34-Ch.55.

<sup>159</sup> The extensive changes to the dimensional tables were done consistent with ORD-10-34-Ch.55.

<b>TABLE 5:17-1: SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT DIMENSIONS<sup>160</sup></b>									
NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .									
DISTRICT	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	BUILDING SPACING	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT (FT.)	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
<b>AG</b>	100,000		40 [A][B]	10% of Lot Width	20% of Lot Width	50	30	100,000	200
<b>R1A</b>	20,000	[C]	40 [A]	7	18	50	30	20,000	90
<b>R1B</b>	10,000	[C]	30 [A]	5	14	40	30	10,000	70
<b>R1C</b>	7,200	[C]	25 [A]	5	10	30	30	7,200	60
<b>R1D</b>	5,000	[C]	25 [A]	3	6	20	30	5,000	40
<b>R1E</b>	4,000	[C]	15 [A]	3	6	20	30	4,000	34

NOTES:

[A] Also see additional regulations in Section 5.18.5 (Averaging an Established Front Building Line).

[B] For roadside stands only the minimum is 30 ft.

[C] Where more than 1 residential Structure is to be constructed on a Lot in the R1 districts, or where dwellings are served by a private street under the provisions of Section 5.21 , the following placement regulations shall also be applied: (a) The minimum spacing between Buildings shall be twice the minimum required side setback dimension of the zoning district in which the Lots is located; (b) A minimum rear setback of 30 feet must be provided between the rear of a residential Structure and the adjacent (nearest) Lot Line; (c) A minimum front setback of ten feet must be provided between all Structures and the private street pavement.

<sup>160</sup> Deleted empty Maximum Density column, created new Building Spacing Column, and deleted former note [A] on Front Yard parking restrictions, which does not belong in a dimensional table and is covered in 5.19.

**TABLE 5:17-2 TWO-FAMILY RESIDENTIAL ZONING DISTRICT DIMENSIONS<sup>161</sup>**

NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .

DISTRICT	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	BUILDING SPACING	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT (FT.)	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT	MAXIMUM FRONT	MINIMUM SIDE	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
R2A	4,250	[B]	25 or [A]	None	5 [C] <sup>162</sup>	30	30	8,500	60
R2B	4,250 or [C]	[B]	25 [A] [B] [D]	None	8 [C]	30	30	8,500	60

NOTES:

[A] Also see additional regulations in Section 5.18.5 (Averaging an Established Front Building Line).

[B] Where more than one residential Structure is to be constructed on a Lot in the R2 districts, or where dwellings are served by a private street under the provisions of Section 5.21 , the following placement regulations shall also be applied: (a) The minimum spacing between Buildings shall be twice the minimum required side setback dimension of the zoning district in which the Lots is located; (b) A minimum rear setback of 30 feet must be provided between the rear of a residential Structure and the adjacent (nearest) Lot Line; (c) A minimum front setback of ten feet must be provided between all Structures and the private street pavement.

[C] Except for ~~fraternities~~Fraternity Houses, ~~sororities~~Sorority Houses, ~~Student Co~~operative ~~houses~~Housing, and ~~Boarding Houses~~Group Housings, for which minimum net Lot Area shall be 350 sq. ft. per occupant.

[D] Or the Established Front Building Line existing on the date this ordinance is adopted, whichever is larger.

**TABLE 5:17-3 MULTIPLE-FAMILY RESIDENTIAL ZONING DISTRICT DIMENSIONS**

NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .

DISTRICT	MAXIMUM DENSITY (DWELLING UNITS PER ACRE)	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	MINIMUM OPEN SPACE (% OF LOT AREA)	MINIMUM ACTIVE OPEN SPACE PER DWELLING UNIT (SQ. FT.)	REQUIRED SETBACK (FT.)					MAXIMUM HEIGHT (FT.)	MINIMUM GROSS LOT DIMENSIONS	
					MINIMUM FRONT	MAXIMUM FRONT <sup>163</sup>	MINIMUM SIDE	MINIMUM BUILDING SPACING	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
R3	10	4,300	65	300	15	40	20 plus [A] and [B]	20	30 plus [A] and [B]	35	21,780	120
R4A	10	4,300	65	300	15	40	20 plus [A] and [B]	20	30 plus [A] and [B]	35 or 45 [C]	21,780	120
R4B	15	2,900	55	300	15	40	12 plus [A] and [B]	20	30 plus [A] and [B]	35 or 45 [C]	14,000	120
R4C	20	2,175	40	300	25 [D]	None	12 plus [A]	20	30 plus [A]	30	8,500	60

<sup>161</sup> Deleted empty Maximum Density column, created new Building Spacing Column, and deleted former note [A] on Front Yard parking restrictions, which does not belong in a dimensional table and is covered in 5.19.

<sup>162</sup> Table revised to delete second, inconsistent building separation requirement (which should begin with the R3 district, to match current practice in resolving this conflict. Minimum side setback columns (each side and both sides combined) were consolidated.

<sup>163</sup> Former note clarifying that maximums do not apply to Buildings constructed before January 3, 2011, was deleted because they have the same rights as other non-conforming Structures in Article VI Nonconformities.

**TABLE 5:17-3 MULTIPLE-FAMILY RESIDENTIAL ZONING DISTRICT DIMENSIONS**

NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .

DISTRICT	MAXIMUM DENSITY (DWELLING UNITS PER ACRE)	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	MINIMUM OPEN SPACE (% OF LOT AREA)	MINIMUM ACTIVE OPEN SPACE PER DWELLING UNIT (SQ. FT.)	REQUIRED SETBACK (FT.)					MAXIMUM HEIGHT (FT.)	MINIMUM GROSS LOT DIMENSIONS	
					MINIMUM FRONT	MAXIMUM FRONT <sup>163</sup>	MINIMUM SIDE	MINIMUM BUILDING SPACING	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
R4D	25	1,740	50	300	15	40	30 plus [A] and [B]	20	30 [A] [B]	120	83,000	200
R4E <sup>164</sup>	75	580	40	150	15	40	10 plus [A]	20	30 plus [A] and [B]	None	14,000	120
R6	N/A	10 times the Floor Area for each Dwelling Unit	None		40	None	20	None	30	15; 12 for Accessory Structures	170,000	100

**NOTES:**

[A] (1) The minimum Required Side Setback as set forth above, shall be increased 3 inches for each foot of Building Height above 35 feet and 1.5 inches for each foot of Building length over 50 feet. The minimum Required Rear Setback, as set forth above, shall be increased 1.5 inches for each foot of Building Height over 35 feet and 1.5 inches for each foot of Building width over 50 feet. The Building length shall be the dimension of that side, which is parallel to the Side Lot Line, of a rectangle within which the Building may be located. The Building width shall be the dimension of that side which is parallel to the Front Lot Line, of a rectangle within which the Building may be located.<sup>165</sup>

(2) As an alternate to increasing the Required Side Setback dimension as required in note (1) above, an equal amount of area in square feet as the increased Side Setback Area may be provided between the minimum side setback line and the Building. Nothing in this section shall be deemed, however, to permit reduction of the required side setback line minimum dimension, as set forth in the table above.<sup>166</sup>

[B] Plus one foot of additional Setback for each foot of Building Height above 30 feet when abutting residentially zoned land.

[C] For Buildings with parking below at least 35% of the Building.

[D] Also see additional regulations in Section 5.18.5 (Averaging an Established Front Building Line).

<sup>164</sup> Additional dimensional standards may be necessary for the R4E.

<sup>165</sup> Text from Sec. 5.62(1).

<sup>166</sup> Text from Sec. 5.62(2).



**5.17.4 Mixed Use Zoning Districts**

Dimensional standards for mixed use zoning districts are provided in Table 5:17-4.

<b>TABLE 5:17-4: MIXED USE ZONING DISTRICT DIMENSIONS</b>											
NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .											
DISTRICT	MAXIMUM FAR (% OF LOT AREA)		MAXIMUM FLOOR AREA PER NON RESIDENTIAL USE (SQ. FT.)	REQUIRED SETBACK (FT.)				MINIMUM / MAXIMUM HEIGHT		MINIMUM GROSS LOT DIMENSIONS	
	NORMAL	WITH PREMIUMS (SEE SEC. 5.18.6)		MINIMUM FRONT	MAXIMUM FRONT <sup>167</sup>	MINIMUM SIDE	MINIMUM REAR	(FT.)	STORIES	AREA (SQ. FT.)	WIDTH (FEET)
<b>O</b>	75	N/A	None	15	40 [A]	[B][C]		[D]	[D]	6,000	50
<b>C1</b>	100	N/A	8,000 [E]	10	25	[B][C]		35	3	2,000	20
<b>C1B</b>	150	N/A	None	10	25	[B][C]		50	4	53,000	20
<b>C1A</b>	200	400	None	None	None	[F]		None	None	None	None
<b>C1A/R</b>	300	600	None	10	None	[F]		None	None	None	None
<b>C2B</b>	200	N/A	None	10	25	[B][C]		55	4	4,000	40
<b>C3</b>	200	N/A	None	10	[B][C][G]	[B][C]	20 [B][C]	55	4	6,000	60
<b>D1</b>	400	700; 900 with affordable housing premiums	None	See Table 5:17-7		See Table 5:17-6		(H)/ Table 5:17-6		None	None
<b>D2 (I)</b>	200	400	None	See Table 5:17-7		See Table 5:17-6		(H)/ Table 5:17-6		None	None

NOTES:  
 [A] Applies only to new detached Buildings constructed or for which a site plan was approved after January 16, 2011, otherwise none. For Lots with more than one Front Lot Line, Required Setbacks shall only apply to one Front Lot Line.  
 [B] 30 ft. where abutting residentially zoned land, otherwise none.  
 [C] Plus one foot of additional setback for each foot of Building Height above 30 feet when abutting residentially zoned land.  
 [D] No minimum. No maximum except in any area on a parcel extending 300 feet from an abutting residentially zoned land, the maximum height limits shall be 55 feet and 4 stories.  
 [E] Maximum Floor Area for each nonresidential use in a Principal or Accessory Building.  
 [F] Equal to the minimum side and minimum rear setback for the abutting district when abutting a residential district.  
 [G] 30 ft where abutting residentially zoned land.

<sup>167</sup> New column in table. Notes exempting Buildings built after 2010 amendments were not carried over. Minimum side setback columns (each side and both sides combined) were consolidated.

**TABLE 5:17-4: MIXED USE ZONING DISTRICT DIMENSIONS**

NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .

DISTRICT	MAXIMUM FAR (% OF LOT AREA)		MAXIMUM FLOOR AREA PER NON RESIDENTIAL USE (SQ. FT.)	REQUIRED SETBACK (FT.)				MINIMUM / MAXIMUM HEIGHT		MINIMUM GROSS LOT DIMENSIONS	
	NORMAL	WITH PREMIUMS (SEE SEC. 5.18.6)		MINIMUM FRONT	MAXIMUM FRONT <sup>167</sup>	MINIMUM SIDE	MINIMUM REAR	(FT.)	STORIES	AREA (SQ. FT.)	WIDTH (FEET)

[H] The minimum height is 24 ft. and 2 stories. This requirement shall apply only to new principal use buildings constructed after December 26, 2009; otherwise none. The Floor Area of the required second Story must be a minimum of 75 % of the Floor Area of the first Story.

[I] All Development in the D2 district shall provide a minimum of 10% of the Lot Area as Open Space, and no Development shall have Building Coverage greater than 80% of the Lot Area.

**5.17.5 Nonresidential and Special Purpose Zoning Districts**

Dimensional standards for nonresidential and special purpose zoning districts are provided in Table 5:17-5.

**TABLE 5:17-5: NONRESIDENTIAL AND SPECIAL PURPOSE ZONING DISTRICTS<sup>168</sup>**

NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .

DIS-TRICT	MAXIMUM LAND COVERAGE OF STRUCTURE	MAXIMUM DENSITY/ <b>AR</b>	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT	MAXIMUM FRONT	MINIMUM SIDE	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
<b>R5</b>	None	Minimum 900 sq. ft. of Lot Area per bedroom	15[A]	None	25[B]	15[B]	50 [C]	20,000	100
<b>P</b>	None	None	10[A]	None	2.5[D]	2.5	Equal to lowest maximum height (ft.) of abutting residential zoning district [E]	None	None
<b>PL</b>	None	None	None	None	None	None	None	None	None
<b>RE</b>	None	75	25 [A][F]	50[F]	0[G]	0[G]	<del>0</del> None[H]	60,000	150
<b>ORL</b>	None	75	25[A]	50	0[G]	0[G]	<del>None</del> 0[H]	<del>6</del> 40,000	150
<b>M1 and M1A</b>	40	75	15[A][I]	None	0[J]	0[K]	35	13,000	100
<b>M2</b>	30	60	15[A]	None	0	30[L]	35	125,000	200

<sup>168</sup> Materials reorganized for clarity with column titles. Minimum side setback columns (each side and both sides combined) were consolidated.

<b>TABLE 5:17-5: NONRESIDENTIAL AND SPECIAL PURPOSE ZONING DISTRICTS<sup>168</sup></b>									
NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .									
DIS-TRICT	MAXIMUM LAND COVERAGE OF STRUCTURE	MAXIMUM DENSITY/ <b>AR</b>	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT	MAXIMUM FRONT	MINIMUM SIDE	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
					[J]				
<b>PUD</b>	See Sections 5.13.9 and 5.29.10								
<p>NOTES:</p> <p>[A] See additional regulations in Section 5.19.8 and Section 5.20.3.</p> <p>[B] Plus one foot of additional setback for each foot of Building Height above 30 feet when abutting residentially zoned land.</p> <p>[C] Except 80 feet for Buildings with parking below at least 35% of the Building.</p> <p>[D] When abutting residential zoning, consistent with the conflicting land use buffer requirements in Section 5.20 (Landscape, Screening, and Buffering).</p> <p>[E] Garages may not exceed height limit of any abutting zoning districts.</p> <p>[F] For new freestanding Buildings constructed or site planned after January 16, 2011, otherwise none. Maximum setbacks shall apply to at least one Lot Line for new freestanding Buildings constructed or site planned after January 16, 2011, on parcels with more than one Front Lot Line.</p> <p>[G] Except 100 feet minimum setback, plus one foot of additional setback for each foot of Building Height above 30 feet, where a Lot Line abuts a residential zoning district.</p> <p>[H] Except 55 feet and 4 stories where Lot Line abuts residentially zoned land.</p> <p>[I] For new freestanding Buildings constructed or site planned after January 16, 2011, otherwise none.</p> <p>[J] Except minimum setback of 30 feet plus one foot of additional setback of Building Height above 30 feet, where a Lot Line abuts residentially zoned land.</p> <p>[K] Except 50 feet minimum setback plus one foot of additional setback of Building Height above 30 feet, where a Lot Line abuts residentially zoned land.</p> <p>[L] 30, except 100 feet when abutting residentially zoned land.</p>									

**5.17.6 Downtown Character Overlay Zoning Districts**

**A. Building Massing Standards<sup>169</sup>**

Buildings and additions constructed after December 26, 2009 on Lots zoned D1 or D2 in the Downtown Character Overlay Zoning Districts shall comply with the Building massing standards in Table 5:17-6, as applicable.

<sup>169</sup> Relocated from Section 5.14.1 Downtown Character Overlay Zoning Districts, since prior draft.

**TABLE 5:17-6: DOWNTOWN CHARACTER OVERLAY ZONING DISTRICTS  
BUILDING MASSING STANDARDS<sup>170</sup>**

OVERLAY ZONING DISTRICT	STREETWALL HEIGHT (STORIES)		OFFSET AT TOP OF STREETWALL REQUIRED AVERAGE (FEET) [A]	MAX. BUILDING HEIGHT (FEET)		MAXIMUM BUILDING MODULE LENGTH (HORIZONTAL DIMENSION IN FEET)	MAXIMUM TOWER DIAGONAL (DIMENSION IN FEET) <sup>171</sup>	SIDE AND REAR SETBACKS
	MAX.	MIN.		D1 DISTRICT	D2 DISTRICT			MINIMUM DISTANCE
<b>SOUTH UNIVERSITY</b>	3	2	5	150	60	45	n/a	For D1, a minimum 30 foot setback from a Lot Line abutting any R zoning district. For D2, a minimum 40 foot setback. This setback shall be measured from the rear and side exterior walls of the Building to any R zoning district boundary on the same block as the Building.
<b>STATE STREET</b>	3	2	5	180	n/a	n/a	n/a	n/a
<b>LIBERTY/ DIVISION</b>	3	2	5	180	60	40 (in D2 only)	n/a	5 foot setback from a side or Rear Lot Line abutting any R zoning district
<b>EAST HURON 1</b>	3	2	n/a	3 stories, except 120 feet in any area extending 150 feet from the East Huron Street property line	n/a	n/a	130	For D1 and D2 Districts, the following minimum setbacks shall be measured from any exterior walls of the building: 1. 30 feet to any residential zoning district boundary. 2. 10 feet to any O zoning district boundary. The Required Setback shall not reduce the width or depth of a Lot suitable for Building to less than 25 feet.
<b>EAST HURON 2</b>	4	2	5	180	n/a	n/a	n/a	n/a
<b>MIDTOWN</b>	4	2	5	180	n/a	n/a	n/a	n/a
<b>MAIN STREET</b>	4	2	5	180	60 feet, except 120 feet in any area extending 150 feet from the East William Street Lot Line <sup>172</sup>	n/a	n/a	For D1, none.  For D2, a minimum 30 foot setback shall be measured from the exterior walls of the Building to any R zoning district boundary on the same block as the Building.

<sup>170</sup> Draft updated to reflect Ord.14-12 passed by City Council on January 5, 2015.

<sup>171</sup> Maximum Tower Dimension column added per ORD-15-07

<sup>172</sup> Revised per ORD-14-12.

**TABLE 5:17-6: DOWNTOWN CHARACTER OVERLAY ZONING DISTRICTS BUILDING MASSING STANDARDS <sup>170</sup>**

OVERLAY ZONING DISTRICT	STREETWALL HEIGHT (STORIES)		OFFSET AT TOP OF STREETWALL REQUIRED AVERAGE (FEET) [A]	MAX. BUILDING HEIGHT (FEET)		MAXIMUM BUILDING MODULE LENGTH (HORIZONTAL DIMENSION IN FEET)	MAXIMUM TOWER DIAGONAL (DIMENSION IN FEET) <sup>171</sup>	SIDE AND REAR SETBACKS
	MAX.	MIN.		D1 DISTRICT	D2 DISTRICT			MINIMUM DISTANCE
KERRYTOWN	3	2	5	n/a	60	40	n/a	10 foot setback from a Side Lot Line abutting any R zoning district 20 foot setback from a Rear Lot Line abutting any R zoning district
FIRST STREET	3	2	5	n/a	60	66	n/a	15 foot setback from a Side Lot Line abutting any R zoning district 20 foot setback from a Rear Lot Line abutting any R zoning district 10 foot Offset from a Side Lot Line abutting any R zoning district

**NOTES:**

[A] For corner parcels with a Lot size of less than 5,000 square feet, no Offset is required. The minimum required Offset at the top of the Streetwall shall be measured from exterior face of the Building at the top of the Streetwall to the closest point of the exterior face of the Tower. For purposes of applying the required average Offset at the top of the Streetwall, a total surface area greater than or equal to the product of the width of the Building Base multiplied by the required Offset shall be provided between the exterior face of the Building at the top of the street wall and the exterior face of the Tower.

**B. Building Front Setback Standards<sup>173</sup>**

1. Building Front Setback by street type designations are designed to support the pedestrian-scale character of downtown streets. Specific street designations are shown on the Building Frontage map referenced in Section 5.10.2

**a. Primary Street**

Lot frontage where placement of Buildings at the Front Lot Line is required.

**b. Secondary Street**

Lot frontage where a range of Building setbacks from the Front Lot Line is required.

**c. Front Yard Street**

Lot frontage where a setback from the Front Lot Line is required.

2. Buildings and additions constructed after December 26, 2009 on Lots zoned D1 or D2 in the Downtown Character Overlay Zoning Districts shall

<sup>173</sup> Subsection retitled for clarity. Relocated from Section 5.14.1 Downtown Character Overlay Zoning Districts since prior draft.

comply with the Building Front Setback standards in Table 5:17-7, as applicable.

TABLE 5:17-7: DOWNTOWN CHARACTER OVERLAY ZONING DISTRICTS BUILDING FRONT SETBACK STANDARDS			
STREET TYPE DESIGNATION	REQUIRED FRONT SETBACK (FEET)		ADDITIONAL REQUIREMENTS AND EXCEPTIONS
	MINIMUM	MAXIMUM	
PRIMARY STREET	0	1 at the Streetwall	(1) Up to 20% of the Building Frontage may exceed the maximum required front setback at the Streetwall for an entry court or plaza area, except in the Main Street Overlay Zoning District. (2) The maximum required front setback at the Streetwall may be exceeded to provide up to 16 feet between the back of curb and the Streetwall to allow for pedestrian circulation. (3) Vehicle access shall be provided from a public <del>alley</del> Alley, if accessible. (4) Recesses and alcoves on the level of the adjacent street to accommodate entry ways, display windows, planters, or similar features shall not be considered as setbacks, provided the Streetwall of upper stories complies with the maximum required front setback.
SECONDARY STREET	0	10 at the Streetwall	Up to 20% of the Building Frontage may exceed the maximum required front setback at the Streetwall for entry court or plaza area.
FRONT YARD STREET	15	None	The average of the Established Front Building Line within 100 feet may be used as provided in Section 5.18.5, if less than 15 feet. Unenclosed porches may encroach 8 feet into the Front Setback Area.

**C. Building Design Requirements on Primary and Secondary Streets<sup>174</sup>**

**1. Materials.**

Buildings and additions constructed after October 25, 2017, on Lots zoned D1 or D2 that have primary or secondary Street Frontages shall comply with the following building design requirements:

- a. The following materials are permitted on facades visible from primary or secondary streets: glass, brick, cut stone, cast stone, or high quality, finished metal, such as architectural grade cast or machined steel.
- b. The following materials are prohibited on facades visible from primary and secondary streets: aluminum or vinyl siding, or an exterior insulation finishing system, except for minor design accents eight feet above the level of the adjacent ~~sidewalk~~ Sidewalk.
- c. Other materials may be permitted if recommended by the Design Review Board and approved by the Planning Commission for inclusion in a site plan.

<sup>174</sup> New provisions from ORD-17-14 adopted September 18, 2017.

**2. Design.**

Buildings and additions constructed after October 25, 2017, on Lots zoned D1 that have primary or secondary Street Frontages shall comply with the following building design requirements:

- a. The height of the street-level Story, from its Floor to the next Floor above, shall be a minimum of 15 feet.
- b. A minimum of 60% of the street-level facade shall be transparent windows or glazing. Glass shall not be mirrored, reflective or darkened and shall be considered transparent if it has a transparency higher than 80% and external reflectance of less than 15%. The transparent windows or glazing shall offer visibility into the inside of the building, meaning that the area inside the building within 4 feet from the surface of the window glass (from the bottom of the window to 8 feet above the Floor) is at least 75% open to perpendicular view.
- c. The bottom of all windows on the street-level Story shall not be more than 2.5 feet above the level of the ~~sidewalk~~ Sidewalk adjacent to a primary or secondary street.

**3. Exemptions.**

Buildings and additions in historic districts are exempt from the requirements of this section, to the extent that the Historic District Commission has granted a Certificate of Appropriateness or Notice to Proceed for the work.

## 5.18 Special Dimensional and Site Layout Standards<sup>175</sup>

This section provides dimensional standards that supplement or modify the standards contained in the dimensional tables in Section 5.17 above.

### 5.18.1 Within Yards and Setback Areas<sup>176</sup>

**A. General**

Except as specifically provided in this chapter, Setback Areas shall be open, unoccupied, and unobstructed by any permanent Structure or any part of a Structure from the ground to the sky.

**B. Exceptions**

1. The following types of Structures may be located anywhere on a Lot, including in any Setback Area:
  - a. open and unroofed terraces, patios, stoops and steps, ramps for Building access
  - b. Awnings

<sup>175</sup> Previous section on C1A and C1A/R district window and non-window wall setbacks deleted to avoid conflict with Building code and for streamlined clarity.

<sup>176</sup> From current Sec. 5:54.



- c. flagpoles
  - d. trellises
  - e. -retaining walls
  - f. fountains
  - g. outdoor cooking equipment
  - h. ~~sidewalks~~ Sidewalks
  - i. mailboxes
  - j. light poles
  - k. Fences in accordance with Section 5.26 .
  - l. Parking Lots and drives if permitted by Sections 5.19 and 5.21 .
2. In residential zoning districts, the following types of Structures may be located anywhere on a Lot except in the required Front Setback Area:
    - a. Solid waste containers (unless approved under Section 2:4 of Chapter 26);
    - b. Fire escapes; and
    - c. Mechanical Equipment.
  3. Certain architectural features, such as cornices, eaves, gutters, bay windows<sup>177</sup>, and chimneys may project up to two feet into any Setback Areas.

### 5.18.2 Lots with Frontage on More than One Street <sup>178</sup>

The minimum Required Front Setback, and the regulations pertaining to the Front Yard and the Front Setback Area, of the zoning district in which a Lot is located shall be applied to every Lot Line abutting a public street.

### 5.18.3 Additional Area, Height, and Placement Standards <sup>179</sup>

- A. No portion of a Lot used in connection with a Building, Structure or use and necessary for compliance with the area, height, and placement regulations of this chapter, shall, through sale or otherwise, be used again as a part of the Lot required for any other Building, Structure or use, except as provided in Subsections B or C below.

<sup>177</sup> Added to reflect current practice.

<sup>178</sup> From current Sec. 5:58. Language “provided, however, that this does not reduce the width suitable for a Building on a Lot of Record to less than 25 feet” moved to Article VI: Nonconformities.

<sup>179</sup> From current Sec. 5:55. The term Existing Front Seback Line has been updated to Established Front Building Line for clarity.



- B.** After an official site plan approval of attached Single-Family Dwellings, Two-Family Dwellings, or Townhouse Dwellings, or condominium Buildings in conformity with all area, height, and placement regulations, applicable to the primary Building(s) the platting and/or conveyance of individual Dwelling Units within the primary Structure shall not be deemed to render either the primary Building(s) or any individual Dwelling Unit a Nonconforming Structure. Platting and/or conveyance of individual Dwelling Units shall be subject to the provisions of Section 2:33, Chapter 27, Title II of this Code relating to multiple services.<sup>180</sup>
- C.** Nothing in this section is intended to allow a greater density of population, greater intensity of land use, or less required Open Space than that provided in the approved site plan or plat.

#### 5.18.4 Exceptions to Height Limits<sup>181</sup>

##### A. Certain Architectural and Mechanical Features<sup>182</sup>

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. 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.

#### 5.18.5 Averaging an Established Front Building Line<sup>183</sup>

In Single-Family, Two-Family and the R4C zoning districts, where the average of the Established Front Building Line of Structures on all adjacent Lots that are located within 100 feet of either side of a Lot and on which there are existing Buildings is greater than the Required Front Setback specified in this chapter, a Required Setback Line shall be provided on the Lot equal to this greater average depth but not to exceed 40 feet. Where the average of the Established Front Building Line is less than the minimum Required Front Setback, the Required Setback Line may be reduced to this lesser average depth, but shall not be reduced to less than ten feet. For the purpose of computing the average: (a) an adjacent vacant Lot shall be considered as having the minimum ~~required front setback~~ **Required Front Setback** specified for the zoning district in which it is located; (b) Lots on the opposite

<sup>180</sup> Expanded to address single-~~Family-family~~ attached units (townhouses and condos) in addition to terrace ~~Family-family~~ dwellings.

<sup>181</sup> From current Sec. 5:56.

<sup>182</sup> Revised to clarify that variance standards apply to these decisions. Note: Variance standards should not apply.

<sup>183</sup> From current Sec. 5:57.

side of the street, or another block of the same street, and Lots fronting on a different street shall not be included when computing the average; and (c) on Corner Lots, the average of the Established Front Building Line for each frontage shall be computed separately.<sup>184</sup>

### **5.18.6 Premiums<sup>185</sup>**

A premium is an increase in allowable Floor Area to exceed the normal maximum Floor Area Ratio established by this chapter for Structures in the C1A, C1A/R, D1 and D2 Zoning Districts.

#### **A. Purpose**

The intent of incorporating premiums into this chapter is:

1. To provide an incentive for residential development in and in close proximity to the City's downtown and to encourage affordable housing opportunities in situations where such opportunities might not otherwise be provided.
2. To encourage Development which reinforces pedestrian activity along streets within the central Business core and to achieve a greater mixture of land uses and intensities than might occur in the absence of such premiums in order to strengthen the economic vitality and diversity which is essential to a healthy and vibrant street life.
3. To provide an incentive for the Development of public spaces and pedestrian amenities and to encourage excellence in urban design through the provision of Open Space and landscaped approaches to Buildings at appropriate corners.
4. To provide incentives for the Development of energy-efficient and environmentally sustainable Buildings.
5. To encourage the inclusion of public parking in the Development of new private Parking Structures.
6. To encourage the preservation of historic Buildings not currently located in an historic district.

#### **B. Premiums Not Intended for Historic Buildings**

Premiums shall not be used as a justification for the demolition of Buildings in historic districts in order to increase density.

#### **C. Availability**

A premium is not available unless a Building and its surrounding Site incorporates and maintains certain architectural features or land uses, or both, as designated by this chapter.

#### **D. Floor Area Premium Options**

In the C1A, C1A/R, D1 and D2 zoning districts, the normal maximum Floor Area Ratio set forth in Table 5:17-2 may be exceeded on Lots located entirely outside of

<sup>184</sup> Changes to reflect actual practice and added clarity.

<sup>185</sup> From current Secs. 5:64 and 5:65.

an historic district and floodplain when amenities as described in this section are provided, subject to the premium limits designated in Table 5:17-4.

### 1. General Regulations

- a. Premium options may be applied only to Lots that are located entirely outside of an historic district, as designated by Chapter 103 and that contain no part of a 100-Year Floodplain, according to City's adopted floodplain map as designated by Chapter 100.
- b. Premium options apply only to any Structure located on the same Lot as the amenities or land uses, or both, which give rise to the premium.
- c. The use of multiple options to acquire premiums is permitted.
- d. All amenities or land uses used to acquire a Floor Area premium shall remain for the life of the Structure. The feature(s) shall only be diminished or discontinued if the additional Floor Area is permanently removed or if another premium option(s) of at least equivalent Floor Area value, as described in this section, is approved as part of a site plan.
- e. Any property that received additional Floor Area through a premium option(s) which was lawfully established prior to, and lawfully continuing in existence on the effective date of this section, shall be deemed a conforming use and/or Structure. When modifications to any such property are requested, compliance with the current premium options is required.
- f. As a condition of receiving the additional Floor Area through a premium option, the Building must comply with the following energy efficiency standards for the construction of all new Floor Area:
  - i) A minimum of two points must be achieved under the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Energy & Atmosphere Credit No. 1. The most recent version in effect at the time of site plan approval shall be applied.
  - ii) Compliance with this requirement shall be verified and documented by the property owner using an industry standard software energy modeling tool (EQUEST or equivalent) prior to the issuance of building permits.
- g. Provisions implementing the premium options, and ensuring future compliance with the premium options, where applicable, shall be included as a condition to the approval of a site plan, and in a Development Agreement, or both, as determined by the City Attorney.

### 2. Residential Use Premium Option

- a. In D1 and D2 districts, 0.75 square foot of Floor Area in excess of the normal maximum Floor Area Ratio shall be allowed for each square foot of Floor Area, regardless of location within the Building, used for Multiple-Family Dwellings. Every sleeping room in the Building shall

have at least 1 window, sliding glass door, skylight, or other acceptable light transmitting media facing directly to the outdoors. The minimum total glazed area for every sleeping room shall be not less than 8% of the<sup>186</sup> Floor Area of such room.

- b. If Dwelling Units constitute a portion of a mixed use Building, Dwelling Units must be completed and receive a certificate of occupancy in advance or at the same time as the certificate of occupancy for nonresidential use, or the property owner shall provide a performance bond for the residential use at the time the certificate of occupancy is requested, subject to the provisions of Section 5.28.8.

### 3. Affordable Housing Premium Option

In D1 and D2 districts, 3,000 square feet of Floor Area in excess of the normal maximum Floor Area Ratio shall be allowed for each on-site Dwelling Unit designated as Affordable Housing for Lower Income Households. In the D1 district, the normal maximum Floor Area Ratio with premiums (700%) may be exceeded, up to a maximum of 900%, to provide Dwelling Units designated as affordable to lower income households. Designated units shall have a minimum of 600 square feet of Floor Area and shall remain affordable for the life of the Building. Provisions to implement the affordable housing premium option shall meet requirements for Affordable Housing for Lower Income Households, as determined by the Office of Community Development.

### 4. Green Building Premium Option

- a. In D1 and D2 districts, Floor Area in excess of the normal maximum Floor Area Ratio shall be allowed in the following increments for Site and/or Buildings achieving the following levels of the U.S. Green Building Council Leadership in Energy and Environmental Development (LEED) Certification for new construction (NC) or existing Buildings. The most recent version in effect at the time of site plan approval shall be applied.
  - i) LEED Silver Certification, with a minimum of four points in Energy & Atmosphere Credits No. 1 and 2: 50% of Lot Area.
  - ii) LEED Gold Certification, with a minimum of 6 points in Energy & Atmosphere Credits No. 1 and 2: 150% of Lot Area.
  - iii) LEED Platinum Certification, with a minimum of 8 points in Energy & Atmosphere Credits No. 1 and 2: 250% of Lot Area.
- b. Prior to issuance of any building permits, the Applicant shall submit proof of LEED registration and a letter in a form satisfactory to the City Attorney stating his/her commitment to achieving the requested LEED Certification and to demonstrating compliance with that commitment.
- c. Within six months of receiving the final certificate of occupancy, the Applicant shall submit to the Planning Manager documentation of the

<sup>186</sup> Revised from “habitable Floor Area”. All references to Floor Area now refer to defined term without modifiers.

credits earned from the U.S. Green Building Council and achievement of the requested Certification This time period may be extended by the Planning Manager at his or her discretion for a period not to exceed three months if additional time is needed to complete the LEED Certification process, and the Applicant has been diligently working towards completion.<sup>187</sup>

- d. Failure to submit documentation from the U.S. Green Building Council within the required time period demonstrating the Applicant's achievement of the requested LEED Certification premium shall be a violation of this ordinance. The penalty for such violation shall be \$500 per day from the date when the report was due to the date it is submitted.
- e. Failure to demonstrate full compliance with the Applicant's commitment to achieve the requested LEED Certification premium shall be a violation of this ordinance. The penalty for each violation is an amount determined by the following formula:

$$P = \left[ \frac{LC - CE}{LC} \right] \times CV \times GPUP$$

Where:

P is the penalty;

LC is the minimum number of credits to earn the requested LEED Certification;

CE is the number of credits earned as documented by the U.S. Green Building Council report;

CV is the construction value, as set forth on the Building permit for the new Structure;

GPUP, the Green Premium Utilization percentage, is the greater of (i) 0.075; or (ii) a fraction, the numerator of which is LEED FAR, the denominator of which is TFAR.

LEED FAR is the minimum amount of Floor Area proposed that is attributable to the Green Building Premium;

TFAR is the total Floor Area proposed.

- f. Failure of the Applicant to comply with the Applicant's commitment to achieve the requested LEED Certification premium shall not affect the right to occupy any of the premium Floor Area if a penalty is paid to the City in the amount determined in this section. No additional penalty shall be imposed for failure to comply with the commitment.
- g. If, within 90 days, or such longer period as the Planning Manager may allow for good cause, the application shall demonstrate, through a supplemental report from the U.S. Green Building Council that is has made sufficient alternations to improvements to earn the requested LEED Certification, or to earn more credits toward such a Certification,

<sup>187</sup> Last phrase added to futher specify a standard for consideration.

then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final.

### 5. Historic Preservation Premium Option

In D1 and D2 districts, additional Floor Area of up to 50% of the Lot Area shall be allowed in excess of the normal maximum Floor Area Ratio for a development that preserves a historic resource, as defined in Chapter 103, that is currently listed on or eligible for the National Register of Historic Places and/or the State Register of Historic Sites. For purposes of calculating the maximum Floor Area Ratio for the Lot, the Floor Area of the historic resource shall not be counted in the total.

### 6. Pedestrian Amenity Premium Option

#### a. General

In C1A, C1A/R and D1 districts, ten square feet of Floor Area in excess of the normal maximum Floor Area Ratio shall be allowed for each square foot of pedestrian amenity improvements, up to a maximum of 8,000 square feet of additional Floor Area. Any space in which a pedestrian amenity is used to acquire a premium shall not be used for the off-street parking of any vehicle, including; but not limited to; automobiles, bicycles, motor bikes, and scooters; nor shall such area be used for access drives, loading, or trash collection stations, except as noted in Section 5.18.6D.6.c.iv)

Interconnections of pedestrian amenities between two or more Lots are required to the extent feasible. A public Open Space used to acquire a premium shall be designed to avoid creation of isolated areas, to maintain lines of sight into the space from streets and major pedestrian walkways, and to provide a secure environment. Lighting shall be provided for public Open Space premiums which are open at night. Pedestrian amenities may include the options listed below.

#### b. Inner Arcade

##### i) General

A non-publicly owned, continuous, covered space that runs through or along a non-~~street~~Street side of a Building and connects public ~~streets~~Streets, arcades, Open Space, or ~~sidewalks~~Sidewalks and is readily accessible and identifiable from the public ~~street~~Street, arcade, or ~~sidewalk~~Sidewalk. An arcade shall meet the following requirements:

- (a) Connect and be accessible from at least two public ~~streets~~Streets, or a public ~~street~~Street and a public or non-public arcade fronting on another public ~~street~~Street, or a public ~~street~~Street and a public or non-public plaza fronting on another public street, or a public or non-public arcade and another public or non-public arcade fronting on another public ~~street~~Street; or a public parking garage and a public ~~street~~Street; and
- (b) Measure not less than 12 feet wide; and



- (c) Have an open and unobstructed headroom of at least 12 feet in height; and
- (d) Remain open for use by the general public during all business hours common in the area.

**ii) Art Work**

Art works may occupy up to five percent of the total arcade area if a minimum clearance of 6 feet for circulation is provided.

**c. Plaza**

A non-publicly owned continuous space, open to the sky for its entire width and length which fronts on a public ~~street~~ Street or public ~~sidewalk~~ Sidewalk, which is directly and conveniently accessible to the public at all times for passive recreational activities. Up to 2/3 of the surface area of the plaza may be occupied by features such as seating, permanent planting areas, water features or works of art. When landscaping is provided for a plaza amenity premium, a variety of living trees, shrubs, ground covers, and seasonal plantings shall be used and shall be located in permanently installed beds or planters serviced by automatic irrigation systems or in large containers, provided they cannot be readily removed. A plaza shall meet the following requirements:

- i) Have a minimum dimension of ten feet; and occupy not less than 500 square feet; and
- ii) Be at the same Grade as the adjacent public ~~sidewalk~~ Sidewalk or not more than 24 inches above or below the Grade of adjoining public ~~sidewalk~~ Sidewalk for no more than 50% of either length of the sides adjoining and measured at the Lot Line; and
- iii) Be readily identifiable from the public ~~sidewalk~~ Sidewalk; and
- iv) A portion of a plaza may be used for the parking of bicycles, provided the square footage of the plaza is increased beyond the minimum requirement at the rate of 96 square feet for each two bicycles parked, and permanently-installed bicycle facilities are provided; and
- v) When seating and/or tables are provided, they shall be available for use by the general public at all times the space is open.

**7. Public Parking Premium Option**

In the D1 district, the Floor Area of above-Grade Parking Structures reserved for vehicular Parking Spaces in excess of the minimum requirement shall not be counted toward the maximum Floor Area Ratio, up to a maximum of 200% of the Lot Area, if the following conditions are met:

- i) The Parking Spaces are made available to the general public;
- ii) The number, location, size, access, layout and design of the Parking Spaces meet standards for public parking, as determined by the Downtown Development Authority;

- iii) The property owner signs and records a Development Agreement or other document approved by the City Attorney outlining the operating conditions for this parking.

## 5.19 Parking Standards<sup>188</sup>

### 5.19.1 Applicability

- A. No new Building shall be erected unless the parking for bicycles and motor vehicles required by this Section 5.19 is provided.
- B. No Building shall be altered so the Floor Area is increased unless the minimum required parking for the entire Building is provided.
- C. The minimum parking required by this chapter shall be provided for the entire Building if the use classification or number of Dwelling Units in the Building is changed and the Parking Space required for the new use exceeds that required for the previous use.
- D. The area outside a Building occupied by Bicycle Parking Spaces shall be considered Open Space and be included in the calculation of Open Space of a Site. When Bicycle Parking Spaces are provided within a Building, the Floor Area used for Bicycle Parking Spaces shall not be included in the Floor Area used for calculating off-street parking requirements.

### 5.19.2 Required Parking

Each land use listed in Table 5-19-1 shall provide the amount of off-street parking indicated in that table, unless those requirements are modified by another provision of this chapter, in which case the modifications shall apply.<sup>189</sup> Parking for vehicles and bicycles in the amount specified in this section shall be provided on the same Lot as the Principal Use or on a separate Lot within 500 feet of the Principal Building if zoned "P" or zoned for the same uses as allowed on the property of the Principal Use. No Lot zoned other than "P" shall have parking as its Principal Use, excepting Lots containing approved Parking Lots or Structures in the D1 or D2 districts. An off-site permanent parking easement must be recorded if required parking is provided on another Lot. An off-site parking easement may not include Parking Spaces or Bicycle Parking Spaces required to keep another property in compliance with this chapter. Any fraction of a required Parking Space or Bicycle Parking Space shall be considered a full space. Required bicycle parking shall meet the design requirements for Class A, B and C facilities provided in Section 5.19.8 Property owners may provide a higher class of bicycle parking facility than is required by this section.

<sup>188</sup> Text for this section from Chapter 59, *Off-Street Parking*, except for the definitions in Sec. 5:161 that have been relocated to Article VIII and exemption for government properties, which is already covered in Sec.5-5-2. Current Chapter 56 *Prohibited Land Uses* includes a restriction reading "No Person shall park overnight or permit the parking overnight of any House Trailer upon any public highway, street, alley, park or other public place within the City" but restrictions on parking on public property (rather than private property) are generally not included in a Development code. This restriction will be added to the City's public streets regulations.

<sup>189</sup> This first sentence is new in order to reflect current practice.



<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>190</sup></b>				
<b>USE</b> [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		<b>REQUIRED PARKING SPACES</b>	<b>REQUIRED BICYCLE SPACES</b>	<b>REQUIRED BICYCLE CLASS</b>
<b>RESIDENTIAL USES</b>				
<b>Household Living</b>	Adult Foster Care	1 space per Dwelling Unit	None	None
	Dwelling, Assisted Living	For R4A: 2 spaces per Dwelling Unit For R4B, R4C, R4D and R4E: 1 ½ spaces per Dwelling Unit For any Nonresidential District: 1 space per Dwelling Unit	1 space per 5 Dwelling Units	A 50% C 50%
	Dwelling, Multi-Family	For R4A: 2 spaces per Dwelling Unit For R4B, R4C, R4D, and R4E: 1 ½ spaces per Dwelling Unit In any Nonresidential District: 1 space per Dwelling Unit	1 space for 5 Dwelling Units	A 50%, C50%
	Dwelling, Single-Family	1 space per Dwelling Unit	None	None
	Dwelling, Townhouse	2 spaces per Dwelling Unit	1 space per 5 Dwelling Units	A 50%, C 50%
	Dwelling, Two Family	1 ½ spaces per Dwelling Unit	None	None
	House Trailer Park	1 space per Dwelling Unit	None	None
<b>Group Living</b>	Emergency Shelter	None	None	
	Fraternities, sororities, student cooperatives	1 space for each 5 beds	1 space per 2 beds	A 50% B 50%
	Group Housing	1 space for each 3 beds	1 space per 5 beds	A 50% B 50%
	Guest House	1 space for each 3 beds	1 space per 5 beds	A 50% B 50%
<b>PUBLIC/INSTITUTIONAL USES</b>				
<b>Airports, Municipal</b>		Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
<b>Community and Cultural</b>	Cemetery	None	None	
	Club Headquarters or Community Center	1 space per 200 sq. ft. of Floor Area	1 space per 1,000 sq. ft. of Floor Area	C 100%
	Conference Center	1 space per 100 sq. ft. of Floor Area	1 space per 1,000 sq. ft. of Floor Area	C 100%

<sup>190</sup> The uses in parking table are organized to be consistent with those in the use table (please see use table for explanation of new use categories). All current parking standards (Sec. 5:167) have been carried forward but have been reassigned to the reorganized set of uses, except that parking standards for current uses that were not carried forward as distinct uses are not included. Uses that do not yet have an adopted parking standard but should probably have one have also been included in the table.

TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED <sup>190</sup>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
	Correctional Facility	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area used for Office and administration purposes, none for Floor Area used for any other purpose [1]	1 space per 3,000 sq. ft. of Floor Area used for Office and Administrative purposes, none for Floor Area used for any other purpose	A 30% C 70%
	Museum, Art Gallery	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Funeral Services	1 space per 100 sq. ft. of Floor Area used for viewing or services. Site must provide a separately designated off-street assembly area for the lead car, hearse, and Family vehicle to be used in funeral processions so that these vehicles do not interfere with off-site traffic or access to required Parking Spaces	None	None
	Government Offices and Courts	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Library	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [ 1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Park, Recreation and Open Space	None	None	
	Religious Assembly	1 space per 3 seats or 1 space per 6 feet of pew. Public off-street <del>Parking Spaces</del> spaces within 1,000 feet of the Site may be counted if approved as part of a site plan	1 space per 50 seats or 100 feet of pew	C 100%
Day Care	Adult Day Care Center	1 off-street <del>Parking Spaces</del> space per caregiver required to staff facility at the state-licensed capacity, <del>and -</del> 2 <del>drop off spaces (off-street or on street within 250 feet of the Lot) for the first</del> plus 4 additional on or off-street <del>Parking Spaces</del> space within 250 feet of the Lot for each 20 adults that the facility is licensed to care for plus 1 space for each additional 20 adults.	1 space per 10 caregivers	B 100%

TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED <sup>190</sup>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
	Child Care Center	1 off-street <del>Parking Spaces</del> space per caregiver required to staff facility at the state-licensed capacity, <del>and - 2 drop off spaces (off-street or on street within 250 feet of the Lot) for the first plus 4 additional on or off street Parking Spaces space within 250 feet of the Lot for each 20 adults children</del> that the facility is licensed to care for <del>plus 1 for each additional 20 children</del> .	1 space per 10 caregivers	B 100%
Educational	Institutions of Higher Learning, Private	5 spaces per classroom	5 spaces per classroom	C 100%
	Institutions of Higher Learning, Public	None	None	
	School, Private	High School: 5 spaces per classroom Elementary and Middle Schools: 3 spaces per classroom	5 spaces per classroom	C 100%
	School, Public	As required by the State	As required by <u>the</u> State	
	School, Trade/Industrial	5 spaces per classroom	5 spaces per classroom	C 100%
Health Care	Hospital	1 space for each 6 beds	1 space per 60 beds	B 100%
	Nursing Care Facility <sup>191</sup>	1 space for each 6 beds	1 space per 60 beds	B 100%
<b>COMMERCIAL USES</b>				
Lodging	Bed and Breakfast	1 space per room	1 space per 4 rooms <sup>192</sup>	B 100%
	Hotel	1 space per room	1 space per 30 rooms	A 100%
Recreation, Entertainment, and Arts	Adult Entertainment Business	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [ 1 ]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Artist Studio	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
	General Entertainment	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [ 1 ]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Indoor Recreation	Athletic Club/Roller Rink = 1 space per 200 sq. ft. of Floor Area	1 space per 1,000 sq. ft. of Floor Area	B 100%
		Bowling Alley = 5 spaces per alley	1 space per 5 alleys	C 100%
	Indoor Court Game Facilities = 1 space per 1,000 sq. ft. of Floor Area	1 space per 2,000 sq. ft. of Floor Area	B 100%	

<sup>191</sup> Parking standards from existing “Convalescent Homes.”

TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED <sup>190</sup>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
	Outdoor Recreation	Swimming Club, Private (Building) = 1 space per 200 sq. ft. of Floor Area	1 space per 1,000 sq. ft. of Floor Area	C 100%
		Stadia Auditorium = 1 space per 3 seats or 1 space per 6 feet of bench	1 space per 100 seats or 200 feet of bench	C 100%
		Enclosed Theater = 1 space for each 3 seats	1 space per 150 seats	C 100%
Sales	Automobiles, Motorcycles, Recreational Vehicles, Equipment (Sales and Rental)	1 space per 310 sq. ft. of Floor Area	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Fueling Station	1 space per 200 sq. ft. of Floor Area	1 space.	C
	Outdoor Sales, Permanent	Minimum of 1 space per 310 sq. ft. of area devoted to outdoor sales, maximum of 1 space per 265 sq. ft. of area devoted to outdoor sales [1]	1 space per 3,000 sq. ft. of area devoted to outdoor sales	B 50% C 50%
	Medical Marijuana Provisioning Center	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Restaurant, Bar, Food Service	1 space for each 100 sq. ft. of Floor Area	1 space per 750 sq. ft. of Floor Area	B 50% C 50%
	Retail Sales, General Merchandise	Retail stores and Retail Centers less than 300,000 sq. ft. of Floor Area = Minimum of 1 space per 310 sq. ft. of Floor Area; maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
		Retail stores and Retail Centers between 300,000 – 600,000 sq. ft. of Floor Area = Minimum of 1 space per 285 sq. ft. of Floor Area; maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
		Retail stores and Retail Centers more than 600,000 sq. ft. of Floor Area = Minimum of 1 space per 265 sq. ft. of Floor Area; maximum of 1 space per 235 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
		Furniture, Home Furnishings and Appliance Stores = 1 space per 600 sq. ft. of Floor Area	1 space per 7,500 sq. ft. of Floor Area	C 100%
	Wholesale, Resale, Building Material and Supplies	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	C 100%
Service and Repair	Automobile, Truck, Construction Equipment Repair	1 space per 200 sq. ft. of Floor Area	1 space.	C
	Contractors, General Construction, and Residential Building	1 space per 333 sq. ft. of Floor Area	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%

<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>190</sup></b>				
<b>USE</b> [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		<b>REQUIRED PARKING SPACES</b>	<b>REQUIRED BICYCLE SPACES</b>	<b>REQUIRED BICYCLE CLASS</b>
	Laundry, Cleaning, and Garment Services	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Parking Lot or Structure	None	1 space per 10 parking stalls	A 30% C 70%
	Personal Services	1 space per 100 sq. ft. of Floor Area	1 space per 750 sq. ft. of Floor Area	C 100%
	Vehicle Wash	Automatic: 1 space per 500 sq. ft. of Floor Area Self-serve: 1 space per bay	1 space.	C
	Veterinary, Kennels and Animal Boarding	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
<b>Office and Research</b>				
<b>Office-Type</b>	Bank, Credit Union, Financial Services	Minimum of 1 space for each 220 sq. ft. of Floor Area and maximum of 1 space per 180 sq. ft. of Floor Area [1]	1 space per 2,000 sq. ft. of Floor Area	C 100%
	Office, General	Minimum of 1 space per 333 sq. ft. of Floor Area; maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Medical/Dental	Minimum of 1 space per 220 sq. ft. of Floor Area; maximum of 1 space per 180 sq. ft. of Floor Area [1]	1 space per 1,500 sq. ft. of Floor Area	A 30% C 70%
	Nonprofit Corporations	Minimum of 1 space per 333 sq. ft. of Floor Area; maximum of 1 space per 250 sq. ft. of Floor Area [1] <sup>193</sup>	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
<b>Research and Development</b>	Laboratories	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
	Medical Laboratory	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
	Research/Development	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
<b>TRANSPORTATION</b>				
	Railroad and Public Transportation Rights-of-Way	None	None	None
	Transit Center, Station, or Depot	1 space per 333 sq. ft. of Floor Area used for Offices or administration of center, Station or Depot	1 space per 3,000 sq. ft. of Floor Area used for Offices or administration of center Station or Depot	A 30% C 70%
	Transportation Facilities	None	None	None
<b>Industrial</b>				
<b>Agricultural</b>	Agriculture/Greenhouse	None	None	None
	Barns	None	None	None
	Borrow Pits	None	None	None

<sup>193</sup> Applied the same parking standards as “Office, General.”

<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>190</sup></b>				
<b>USE</b> [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		<b>REQUIRED PARKING SPACES</b>	<b>REQUIRED BICYCLE SPACES</b>	<b>REQUIRED BICYCLE CLASS</b>
	Medical Marijuana Grower	Minimum of 1 space per 333 sq. ft. of Floor Area used for Offices, maximum of 1 space per 250 sq. ft. of Floor Area used for Offices. 1 space per 2,000 sq. ft. of Floor Area used for cultivation.	1 space per 3,000 sq. ft. of Floor Area	B 100%
<b>Manufacturing, Processing, Assembly, and Fabrication</b>	Asphalt, Concrete Mixing Plant, Sand and Gravel Pit	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Coal and Coke Dealer	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Heavy Manufacturing	1 space per 1,500 sq. ft. of Floor Area <sup>194</sup>	1 space per 25,000 sq. ft.	B 100%
	Laundry and Dry Cleaning Plant	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Light Manufacturing	1 space per 1,500 sq. ft. of Floor Area <sup>195</sup>	1 space per 25,000 sq. ft.	B 100%
	Oil and Gas Well	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Pilot Manufacturing	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
	Scrap and Waste Material	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Slaughterhouse	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
<b>Utilities and Communications</b>	Broadcasting Facility	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Data Processing and Computer Centers	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Electric, Gas, and Sanitary Services	None	None	None
	Power and Fuel Rights-of-Way	None	None	None
	Wireless Communication Facilities	None	None	None
<b>Warehousing and Storage</b>	Outdoor Storage	None	None	None
	Warehousing and Indoor Storage	1 space for 2,000 sq. ft. of Floor Area	1 space per 30,000 sq. ft.	B 100%
<b>ACCESSORY USES<sup>196</sup></b>				
Bed and Breakfast, Accessory		1 space, plus that required for the Principal Use	1 space, plus that required for the Principal Use	B 100%
Community Recreation		1 space per 200 sq. ft. of Floor Area	1 space per 1,000 sq. ft. of Floor Area	C 100%
Dwelling Unit, Accessory		3 spaces on the Lot	None	None
Dwelling Unit, Manager's		1 space per Dwelling Unit	None	None

<sup>194</sup> Used parking standard from current "Manufacturing" use.

<sup>195</sup> Used parking standard from current "Manufacturing" use.

<sup>196</sup> Only Accessory Uses that would likely require parking are included.



TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED <sup>190</sup>			
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]	REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
Family Day Care Home	None	None	None
Group Day Care Home	1 space per caregiver not living in the dwelling, plus that required for the Principal Use and 2 off-street or on-street Parking Spaces within 250 feet of the Lot for drop off and pick up.	None	None
Home Occupation	None	None	None
Management/Maintenance Office and Storage	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
Restaurant, Bar, Food Service	1 space per 100 sq. ft. of Floor Area	1 space per 750 sq. ft. of Floor Area	B 50% C 50%
Retail Sales, General Merchandise	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
Roadside Stand	Two spaces.	None	None
<b>TEMPORARY USES</b>			
Christmas Tree Sales	None.	None	None
Outdoor Sales, Temporary by Others	By Special Exception		
Special Event Sales	By special ordinance		
NOTES:			
[1] Additional parking may be provided if it does not increase Impervious Surfaces beyond that which would be provided by meeting the maximum parking required. Examples of additional parking may include, but not be limited to, under-Structure parking, Rooftop parking, or Structured parking above a surface Parking Lot.			
[2] Other uses: parking and bicycle spaces for uses not specified shall be determined by the Planning Manager, Based upon requirements for similar use.			

**5.19.3 Special Parking Districts**

Lots located in the D1 or D2 downtown zoning districts are considered a special parking district and are subject to the following standards:

- A. No off-street motor vehicle parking is required in the special parking district for Sites that do not exceed the normal maximum permitted Floor Area Ratio or for Sites zoned PUD with Floor Area that does not exceed 300% of the Lot Area. Structures that exceed the normal maximum Floor Area by providing Floor Area premiums, or PUD-zoned Sites that exceed 300% of Lot Area, shall provide Parking Spaces for the Floor Area Ratio in excess of the normal maximum permitted. This parking shall be provided at a rate of one off-street Parking Space for each 1,000 square feet of Floor Area.
- B. Each Parking Space reserved, signed and enforced for a car-sharing service may count as four required motor vehicle Parking Spaces. For the purpose of this section, a car sharing service is a type of car rental service where people rent cars for short periods of time, such as by the hour.

- C. Off-street bicycle parking is required for residential uses in the special parking district at a rate of one off-street Bicycle Parking Space for each 2,500 square feet of Floor Area shall be provided in compliance with the requirements of Sections 5.19.2 and 5.19.9A for Class A spaces. Off-street bicycle parking is required for nonresidential uses in the special parking district at a rate of one off-street Bicycle Parking Space for each 10,000 square feet of Floor Area and shall be provided in compliance with the requirements of Sections 5.19.2 and 5.19.9A.3 for Class C spaces.
- D. The required bicycle or motor vehicle parking shall be provided on-site, off-site as described in this chapter, or through the execution of a contract for parking permits within the City's public parking system, or payment of a contribution in lieu of required parking consistent with the requirements adopted by City Council, or any combination thereof.<sup>197</sup>
- E. Approval of a contribution in lieu of required motor vehicle or bicycle parking, or a contract for parking permits within the City's public parking system, shall be conditioned upon the execution of a Development Agreement. Payment of the contribution in lieu for required parking shall be made prior to the issuance of a certificate of occupancy.<sup>198</sup>
- F. The Applicant may request, as part of a site plan, to meet all or a portion of the bicycle parking requirements by installing Bicycle Parking Spaces in the Public Right-of-Way and/or a public Parking Structure. City Council may approve this request if there is sufficient space in the Right-of-Way and/or Parking Structure and the location is convenient to bicycle users.
- G. Parking Structures that are available solely to residents or employees of the Building are not subject to the stall and aisle standards of Section 5.19.8

#### 5.19.4 Access

The Parking Spaces and Bicycle Parking Spaces required by this chapter shall be accessible to a public ~~street~~ Street or ~~alley~~ Alley and shall be kept available for the use of occupants, employees or other users of the Building for which the space was provided. Nothing in this section shall preclude a reasonable charge to the occupants of the Building for use of the Parking Spaces and/or Bicycle Parking Spaces.

#### 5.19.5 Deferred Parking Requirements

If the Parking Spaces or Bicycle Parking Spaces required by this chapter are determined by the owner to be in excess of the immediate need for parking, the provision of up to 40% of the required Parking Spaces or Bicycle Parking Spaces may be deferred if shown on an approved site plan. If the Planning Manager determines that some or all of the deferred Parking Spaces or Bicycle Parking Spaces are needed, these spaces must be installed.

<sup>197</sup> Text revised per ORD-12-04.

<sup>198</sup> Text revised per ORD-12-04.



**5.19.6 Barrier Free Parking**

All Parking Lots shall have Barrier free Parking Spaces as required by and in conformity with state law (MCL 125.1352).

**5.19.7 Use of Off-Street Parking Facilities**

- A.** Motor vehicles shall only be parked on a Driveway, in a Structure or within an approved Parking Space or Parking Lot.
- 1.** This subsection shall not be applicable on those days when University of Michigan football games or scrimmages are played in Michigan Stadium<sup>199</sup>
  - 2.** The City Council may, by resolution, designate special event dates on which this prohibition does not apply in order to allow temporary parking of motor vehicles in the Front Yard. The special event date(s) shall be included in the resolution, as well as the special event boundaries, conditions, and standards that will apply, if any, to preserve public safety and the attractive appearance of the cityCity. Failure to comply with the conditions set forth in the resolution shall be a violation of this chapter.<sup>200</sup>
- B.** Required off-street Parking Spaces or Bicycle Parking Spaces shall not be obstructed by storing objects, Structures or vehicles that are inoperative, unregistered or for sale.
- C.** In residential zoning districts, trailers, boats, campers and similar vehicles must be stored in a Parking Structure, on a Driveway or in a location other than the Front Yard.
- D.** In residential zoning districts, no more than two commercially-licensed vehicles shall be kept in the open on the vehicle owner's private property or within 500 feet of the property on a public street.
- E.** In residential zoning districts, no vehicle over 22 feet long or a commercial vehicle licensed for an empty weight of more than 5,500 pounds shall be parked anywhere on a Lot.

**5.19.8 Design of Vehicle Parking Facilities**

Parking Structures, Parking Lots and Parking Spaces, shall comply with the following design standards:

- A.** Vehicular Parking Structures, Parking Lots and Parking Spaces shall not be located in the Front Yard. No Parking Space within a Parking Structure or Parking Lot may be closer to the street than the front face of a Building unless an exception is listed in subsection B.<sup>201</sup>
- B.** Exceptions:

<sup>199</sup> Text revised per ORD-12-37.

<sup>200</sup> Text revised per ORD-12-37.

<sup>201</sup> Text added per ORD-10-34-Ch.55.

1. Sites with existing vehicular Parking Structures, Parking Lots, and Parking Spaces approved or constructed prior to the Effective Date and located closer to a street than the front face of a Building.
  2. Sites where an addition is proposed to an existing Building.
  3. For Sites with more than one Front Lot Line; one Front Lot Line shall be exempt from the requirements of paragraph A in this section.. Vehicular Parking Structures, Parking Lots and Spaces shall be set back a minimum of 25 feet from the exempted Front Lot Line.<sup>202</sup>
  4. Multiple-Family uses having more than 100 feet of Street Frontage, more than 20,000 square feet of land area, and more than 20 Dwelling Units may have vehicular Parking Lots and Parking Spaces located in the Front Yard but not in the Front Setback Area.
  5. Religious assemblies, Child Care Centers and schools with more than 100 feet of Street Frontage and more than 20,000 square feet of land area may be permitted to have vehicular Parking Lots and spaces located in the Front Yard but not in the Front Setback Area if approved as part of a Special Exception Use review.
- C. In Residential Districts, no Parking Lot shall be located closer than ten feet to any Building used for a Dwelling Unit on the first Floor.<sup>203</sup>
- D. Parking Lots shall have adequate maneuvering area and access to permit use of all Parking Spaces without moving other vehicles and prevent backing into a public street. Parking Spaces shall be clearly marked and Parking Lots shall conform to the minimum stall and aisle standards in Table 5:19-2.

TABLE 5:19-2: STALL AND AISLE STANDARDS					
(1)	(2)	(3)	(4)	(5)	(6)
ANGLE OF PARKING (DEGREES)	STALL WIDTH [A] (FT.)	CURB LENGTH PER STALL (FT.)	STALL DEPTH 90° TO WALL [B] (FT.)	AISLE WIDTH [C] (FT.)	WALL TO WALL WIDTH (FT.)
<b>REGULAR CAR SPACES</b>					
0	9	20	9	12	
45	9	12 ft. 7 in.	19 ft. 5 in.	12	51
60	9	10 ft. 4 in.	20 ft. 5 in.	16	57
75	9	9 ft. 3 in.	20	20	60
90	9	9 ft.	18	22	58
<b>SMALL CAR SPACES [D]</b>					
0	8	18 ft.	8	12	
45	8	11 ft. 3 in.	17	12	46
60	8	9 ft. 2 in.	17 ft. 9 in.	14	49 ft. 8 in.
75	8	8 ft. 3 in.	17 ft. 5 in.	17	52
90	8	8	16	20	52

<sup>202</sup> Text revised per ORD-12-04.

<sup>203</sup> Existing paragraph on Parking Space dimensions was deleted because content is addressed elsewhere, mostly in the footnotes of table 5:19-2.

TABLE 5:19-2: STALL AND AISLE STANDARDS					
(1)	(2)	(3)	(4)	(5)	(6)
ANGLE OF PARKING (DEGREES)	STALL WIDTH [A] (FT.)	CURB LENGTH PER STALL (FT.)	STALL DEPTH 90° TO WALL [B] (FT.)	AISLE WIDTH [C] (FT.)	WALL TO WALL WIDTH (FT.)
<p>NOTES:</p> <p>[A] Stall width shall be increased by 1 foot for those spaces which are adjacent to a Fence, wall or enclosure. Barrier free Parking Spaces must be designated as required by and in conformity with state law.</p> <p>[B] Stalls which allow for vehicle overhang (next to curbs) can be reduced in depth by 2 feet.</p> <p>[C] In Lots that are designed for both regular and small cars, the regular size aisle width shall be used.</p> <p>[D] Up to 30% of Parking Spaces in a Parking Lot may be designated as small car spaces and clearly Signed for "small cars".</p>					

- E. Driveways and Parking Lots shall be surfaced with asphalt, concrete, porous pavement, pavers or brick in accordance with City Public Services Standard Specifications. However, Driveways and Parking Lots that serve Single- or Two-Family Dwellings with Vehicular Use Areas of less than 1,200 square feet and less than five Parking Spaces may be surfaced with gravel or other similar material in accordance with standard engineering practices. Approval of such surfacing shall be conditioned upon adequate coverage and barriers sufficient to confine the material.<sup>204</sup>
- F. Parking Lots shall be equipped with curbs or other barriers to confine vehicles to the Parking Lot. Driveways, Parking Lots and Structures shall be constructed and maintained in a manner to prevent drainage nuisances and the formation of potholes and must be kept reasonably free of snow and ice.

**5.19.9 Design of Bicycle Parking Facilities<sup>205</sup>**

No Person shall construct or establish a Bicycle Parking Space except pursuant to a Building permit issued upon the submission of plans showing compliance with the standards below.

**A. Facility Standards**

When bicycle spaces are required by this chapter, the total number of spaces shall be provided by one or a combination of the following three classifications of bicycle facilities in accordance with Section 5.19.2.

**1. Class A - Enclosed Bicycle Storage**

Enclosed bicycle storage shall be in the form of individual enclosed storage lockers, an enclosed bicycle parking shed, a room within a Building that contains individual storage lockers or individual hoop spaces with additional storage space, or individual private garages. All types of enclosed bicycle storage shall be easily accessible, secure, well lighted and weather resistant. If individual hoops within a room are used, one standard Bicycle Parking Space shall consist of a space not less than two feet wide by six feet long with a minimum clear access

<sup>205</sup> Text from 5:168.1. Lighting provisions have been moved to 5:24 Lighting.

aisle width of three feet. The Planning Manager may approve alternative designs that use the available space more efficiently and store the equivalent number of bicycles in a smaller area.<sup>206</sup> Asphalt, concrete, porous pavement, pavers or brick shall connect the enclosed bicycle storage area to a ~~sidewalk~~ Sidewalk or Driveway. Enclosed bicycle storage constructed exterior to a Building shall comply with the zoning regulations for Accessory Structures.

### **2. Class B - Covered Bicycle Racks**

Covered bicycle racks, such as hoop style racks or another type of rack that meets these standards, shall be securely anchored in pavement and designed so that both wheels and the frame of a bicycle may be securely locked with either a chain, cable or padlock. One standard Bicycle Parking Space shall consist of a space not less than two feet wide by six feet long with a minimum clear access aisle width of three feet. The Planning Manager may approve alternative designs that use the available space more efficiently and store the equivalent number of bicycles in a smaller area.<sup>207</sup> Pavement shall meet City public services department standards. The racks shall be covered by a Building overhang or a self-standing cover with a minimum clearance of seven feet above Grade. Asphalt, concrete, porous pavement, pavers or brick shall connect the covered bicycle racks to a sidewalk or Driveway. All covered bicycle racks shall comply with zoning regulations for Accessory Structures.

### **3. Class C - Fixed Bicycle Racks**

Fixed bicycle racks, such as hoop style racks or another type of rack that meets these standards, shall be securely anchored in pavement and designed so that both wheels and the frame of a bicycle may be securely locked with a chain, cable or padlock. One Bicycle Parking Space shall consist of a space not less than two feet wide by six feet long with a minimum clear access aisle width of three feet. Pavement shall meet City Public Services Department Standard Specifications. Asphalt, concrete, porous pavement, pavers or brick shall connect the fixed bicycle racks to a ~~sidewalk~~ Sidewalk or Driveway.

## **B. Location Criteria**

Exterior bicycle parking facilities shall be placed in close proximity to main Building entrances and in a location that is visible and easily accessible. A physical barrier, designed to prevent motor vehicles from driving into bicycle parking areas, shall be provided between bicycle and motor vehicle parking when bicycle parking areas are located within a Parking Structure or Lot. Bicycle parking in Parking Structures shall be located on the Street level and near an entrance and Public Sidewalk.

### **5.19.10 Driveways**

Driveways leading to Parking Spaces and Parking Lots shall meet the following standards:

<sup>206</sup> Revised to clarify that this requires PDSU Manager approval.

<sup>207</sup> Revised to clarify that this requires PDSU Manager approval.

- A. The number of Driveways permitted shall correspond to the number of Openings permitted as provided in Section 5.21.<sup>208</sup>
- B. For a Driveway serving a Single or Two-Family Dwelling, the width shall be a minimum of ten<sup>209</sup> and a maximum of 24 feet in width.
- C. For Driveways serving all uses other than Single or Two-Family Dwellings, the width of one-way Driveways shall be a minimum of ten feet and a maximum of 15 feet, and the width of two-way Driveways shall be a minimum of 18 and a maximum of 24 feet.
- D. All Driveways shall lead to a garage, carport, Parking Space or Parking Structure meeting the requirements of this chapter, or back onto a street by means of the original Opening or a second approved Opening.
- E. A Driveway leading to a garage or carport for a Single-Family and Two-Family Dwelling may be widened to the width of the garage or carport up to 30% of the width of the Front Lot Line.<sup>210</sup>
- F. Driveways providing access to property in nonresidential zoning districts may not be located in residential zoning districts.
- G. Driveways located in the Front Yard that serve Drive-Through Facilities shall meet the following standards:
1. The width of the Driveway shall not exceed 12 feet in width.
  2. A minimum five foot wide raised ~~sidewalk~~ Sidewalk shall be provided across the Driveway connecting the Public Right-of-Way to the main entrance of the Building. The portion of the ~~sidewalk~~ Sidewalk that crosses the Driveway shall be designed in a manner that clearly identifies the pedestrian crossing.
  3. At least four bollards shall be provided near each corner where the raised ~~sidewalk~~ Sidewalk crosses the Driveway to alert drivers of this pedestrian crossing.
  4. Right-of-Way screening ~~per Chapter 62~~ shall be provided between the Right-of-Way and Driveway in a manner that screens the Driveway from view from the Right-of-Way but does not obscure the view between the motorist and pedestrians approaching the cross walk.
  5. For at least one Front Lot Line, if more than one Driveway is proposed from the same street, the Driveways may not be connected in the Front Yard.<sup>211</sup>

<sup>208</sup> Added for clarity and to reflect current practice.

<sup>209</sup> Revised from minimum of 0 feet.

<sup>210</sup> Revised for clarity.

<sup>211</sup> Test added per ORD-12-04.

## 5.20 Landscaping, Screening, and Buffering<sup>212</sup>

### 5.20.1 Purpose

This section is intended to:

- A. Improve the appearance of off-street Vehicular Use Areas, property abutting Public Rights-of-Way, private streets, and certain shared Driveways within easements, thereby reducing conditions which lead to urban blight.
- B. Require buffering between conflicting land uses and conflicting zoning districts.
- C. Promote the public health, safety and general welfare by reducing noise and air pollution, light glare, soil Erosion, and thermal heating of the environment.
- D. Reduce the negative impacts of storm water runoff by reducing Impervious Surface area and retaining greater amounts of storm water on site.
- E. Improve the quality and safety of pedestrian movement within paved areas and along Public Rights-of-Way.<sup>213</sup>
- F. Protect and preserve the appearance, character and value of the surrounding neighborhoods and Parks.
- G. Promote preservation of existing significant vegetation, the use of non-invasive plant species, and the selection of plant species based on Site conditions including soil type, light exposure, presence of utilities, and salt tolerance.

### 5.20.2 Applicability

The provisions of this chapter shall require landscaping and screening on the Site in the following cases:

- A. Whenever a site plan is required by this chapter; or
- B. Whenever the estimated expense of construction exceeds 50% of the appraised replacement cost of the entire Building or Structure, exclusive of foundation, prior to its improvement (as determined by the Building Official); or
- C. Whenever a shared Driveway is provided within an easement in accordance with this chapter.

### 5.20.3 Vehicular Use Area Landscaping and Screening

Vehicular Use Areas shall have the following landscaping and screening:

#### A. Right-of-Way Screening<sup>214</sup>

Vehicular Use Areas that are visible from a Public Right-of-Way shall include the following between the Vehicular Use Area and the Right-of-Way. This section

<sup>212</sup> Text from Chapter 62: *Landscaping and Screening* and Chapter 40; *Trees and Vegetation*, and including Significant amendments from Ord. 11-09.

<sup>213</sup> New purpose.

<sup>214</sup> Includes amendments from Ord. 11-09. Materials on Fueling Station screening are a now a use-specific standard for that use.



applies to public ~~alleys~~ Alleys only when the public ~~alley~~ Alley separates a residential use or zone from a Vehicular Use Area.

**1. Minimum Width**

A landscaped buffer strip must be at least ten feet in width. If there is an existing Building or Vehicular Use Area located within the required ten-foot landscape buffer strip, the landscape buffer strip may have an average of ten feet in width over the entire length of the required buffer area, with no specific location along the buffer being less than five feet in width.

**2. Plantings**

One deciduous shade or evergreen tree must be installed in the landscape buffer area for every 30 feet or fraction thereof of Public Right-of-Way Street Frontage of the Vehicular Use Area. Arrangement of trees in clusters or groupings is encouraged, but trees shall not be spaced more than 50 feet apart on center.

**3. Continuous Screening**

A hedge, dense shrub planting, landform berm, wall or combination of those features forming a continuous screen at least 30 inches in height above the Vehicular Use Area Grade, is required in the buffer strip area to provide maximum screening of the Vehicular Use Area. Arrangement of shrubs in clusters or groupings is encouraged. If a wall is used, it shall be set back at least four feet from the Lot Line with one 30-inch high shrub provided for every four lineal feet, planted on the street side of the wall.

**B. Interior Landscape Islands**

Vehicular Use Areas greater than 3,300 square feet shall contain protected landscape islands located entirely within the perimeters of the Vehicular Use Area, for the purpose of breaking up the expanse of pavement. Multiple level Parking Structures are not required to have interior landscape islands but shall comply with all of the other requirements of this chapter.

The following landscape island requirements shall be met:

1. Within the interior of the Vehicular Use Area, landscape islands shall be provided to meet or exceed the ratios shown in Table 5:20-1:

TABLE 5:20-1: INTERIOR LANDSCAPE AREAS	
VEHICULAR USE AREA	LANDSCAPE AREA/VEHICULAR USE AREA RATIO
3,300--49,999 square feet	1:20 square feet
50,000--149,999 square feet	1:15 square feet
150,000 square feet and over	1:10 square feet

2. To meet the requirements of this section, each interior landscape island shall have at least 165 square feet in area, a minimum dimension of eight feet in any direction, and shall include at least one deciduous shade tree. Combining landscape islands to form larger landscaped areas is encouraged.

3. Any landscaped area located outside the perimeter of the Vehicular Use Area will not count toward satisfying this requirement. Landscaped areas within the corners of the Vehicular Use Area may be counted, up to a maximum of 200 square feet for each corner, if at least one deciduous shade tree is located within that area. A minimum of 50% of the perimeter of the landscape corner must abut the Vehicular Use Area to be considered an interior landscape island.
4. A maximum of 15 Parking Spaces are allowed in a parking row without a landscape island break. If landscape islands have been combined to form larger landscaped areas and are used for Bioretention then 20 continuous Parking Spaces will be permitted.
5. The total number of trees required in the interior landscaped island shall be calculated and provided at a rate of one deciduous shade tree for each 250 square feet or fraction of 250 square feet of required interior landscaped island.
6. Additional credit toward required interior trees may be obtained for existing trees that measure a minimum of eight inches in Diameter at Breast Height (DBH) that are preserved within the Vehicular Use Area or within 15 feet of and on the same parcel as the Vehicular Use Area. Each eight inches or fraction of eight inches of DBH of any healthy existing tree that is preserved may be deemed equivalent to one required interior island tree. Up to 50% of the requirements of Subsection 5.20.3B.5 may be satisfied by preserving existing trees which meet the standards of this subsection. Additional credit allowed by this subsection is in addition to the credit allowed for existing vegetation used to meet the requirements of Section 5.20.7L.
7. When the total area required in interior landscape islands for all of the Vehicular Use Areas on Site exceeds 750 square feet, at least 50% of the area in the required interior landscape area must be depressed Bioretention areas and utilized for storm water management. Depressed Bioretention areas can be used to meet the storm water pretreatment requirements in Section 5.22 . When the total area required in interior landscape islands for all of the Vehicular Use Areas on Site is less than 750 square feet, interior landscape islands in the form of depressed Bioretention areas that are utilized for storm water management are encouraged.
8. Provision shall be made for snow pile storage locations such that they do not damage required plantings nor diminish required parking capacity.

#### **5.20.4 Conflicting Land Use Buffers**

- A. Conflicting land use buffer shall be provided under the following conditions:
  1. A Vehicular Use Area adjacent to a public park or land principally used or zoned for residential purposes.
  2. A refuse/recycling container adjacent to a public park or land principally used or zoned for residential purposes.
  3. The portion of a parcel zoned O, RE, ORL, C, or M abutting a public park or parcel principally used or zoned for residential purposes.



4. The portion of a parcel zoned R3 or R4 adjacent to a parcel principally used or zoned for residential purposes.<sup>215</sup>

**B.** The conflicting land use buffer shall consist of the following:

**1. Width**

A landscaped buffer strip must be at least 15 feet wide. If there is an existing Building or Vehicular Use Area located within the required 15 foot landscape buffer strip, the landscape buffer strip may have an average of 15 feet in width over the entire length of the required buffer area, with no specific location along the buffer strip being less than 8 feet in width.

**2. Plantings**

One tree for each 15 feet or fraction thereof of abutting land. At least 50% of the trees within the conflicting land use buffer shall be evergreen. Arrangement of trees in clusters or groupings is encouraged, but in all cases shall be between 15 feet and 30 feet apart on center. Plantings should be placed to screen the views between Buildings that existed at the time of site plan approval, (especially windows and patio views) on the adjacent property.

**3. Continuous Screening**

A hedge, landform berm, wall, Fence or combination of those features forming a continuous screen at least four feet high. For parcels principally used or zoned for residential purposes the requirement for a hedge, landform berm, wall or Fence is only required to screen Vehicular Use Areas and refuse/recycling containers that are adjacent to the conflicting land use buffer.<sup>216</sup>

~~4. Design~~

~~The site design and planting scheme shall comply with the requirements set forth in this chapter.~~

~~5. Materials~~

~~Materials used in these areas shall comply with standards set forth in this chapter.~~

**5.20.5 Private Streets and Shared Driveway Buffers**

Private streets and shared Driveways within easements in accordance with Section 5.21.4 shall comply with the following street tree and buffer requirements:

**A. Street Trees**

One deciduous tree for every 30 feet or fraction thereof shall be provided along each side of a private street. Placement of trees between the edge of the curb and the ~~sidewalk~~ Sidewalk is encouraged, but trees shall not be spaced more than 12 feet from the edge of the curb. A variety of species, planted in alternating order, is

<sup>215</sup> Revised from reference to adjacency to R1, R2, or public park.

<sup>216</sup> Requirement that Fueling Stations use an opaque wall as the continuous screen was consolidated with a similar provision in the Use-specific standards for Fueling Stations.

encouraged to ensure a tree Canopy over the street and ~~sidewalk~~ Sidewalk in the event of species-specific infestation or disease.

### **B. Buffer**

A buffer between a private street or shared Driveway and any adjacent parcels not served by the private street or shared Driveway shall be provided consisting of the following:

1. A landscaped buffer strip at least eight feet wide.
2. A hedge, wall or solid Fence, or combination of those features, forming a continuous screen at least four feet in height.

### **5.20.6 Refuse/Recycling Container Screening**

Refuse/recycling containers for other than Single and Two-Family Dwelling shall be screened from view from any adjacent residential use or Public Right-of-Way, excluding ~~alleys~~ Alleys. Screening shall consist of a six-foot high opaque wall or Fence. Live landscape material shall be located so it does not interfere with the function of the refuse container is encouraged in addition to the opaque screen.

### **5.20.7 Material and Design Standards**

~~Landscaping, buffering, and screening materials~~ The Site design and planting scheme, and materials used to comply with this Section 5.20 shall meet the following standards:

- A. Artificial plants or trees shall not be used.
- B. Any plant listed on the City Invasive Species List may not be used to meet the requirement of this chapter.
- C. If more than 20 trees will be used, a mixture of three or more tree species must be used.
- D. If more than 40 shrubs will be used, a mixture of three or more shrub species must be used.
- E. When proposing or using a native or prairie planting, the selection of plant species must be diverse and similar to native plant communities present in the City. (The City's Natural Area Preservation Program maintains a list of plants native to the City.)
- F. Plant material used for hedging or screening shall be evergreen and/or deciduous shrubs which shall be a minimum of 24 inches tall at time of planting and of a size, quantity and spacing to achieve 50% year-round opacity at the time of planting. Diversity and native species are encouraged. Plant material shall meet current ANSI American Standards for Nursery Stock.
- G. Fences and walls required for this chapter shall comply with the requirements of Section 5.26 . Both sides of the Fence or wall must be decoratively faced when used to meet the screening requirements of this section.<sup>217</sup>

<sup>217</sup> Last phrase added for clarity.

- H.** Landscaped areas shall be covered with biodegradable mulch, ornamental grasses, forbs, native prairie plants, native Wetland plants, grass or other perennial herbaceous or shrub planting combinations. Stone or aggregate shall not be accepted to meet this requirement. In areas subject to Erosion, Erosion-reducing blankets, or suitable reinforced mulch, shall be used.
- I.** Deciduous shade trees shall have a mature crown spread of greater than 15 feet. Permitted trees include those on the City's Approved Street Tree List. Other types of trees can be used with approval of the PSA Administrator. Due to the overpopulation of Maple species (*Acer* spp.) within the City, their use should be limited. Small trees such as Crabapples (*Malus* spp.), fruit trees or Hawthorne (*Crataegus* spp.) are not permitted unless approved by the PSA Administrator. At planting, trees must have a minimum caliper of two inches at six inches above the root ball, a burlap ball size of at least ten times the caliper size, and a clear stem of at least five feet (except within sight triangles where eight feet is required per Section 5.20.8). Trees must meet current ANSI Standards for Nursery Stock.
- J.** Plants required in this chapter shall be planted in soils suitable for the species specified, including a depth to compacted surfaces of at least 30 inches with drainage from that surface, if required. Soils must be provided with suitable pH, coarseness, fertility and slope that will maximize the long term vitality of plantings.
- K.** Evergreen trees shall be a minimum of seven feet in height with a minimum spread of three feet, and a burlap ball size of at least ten times the caliper size. Evergreen trees must meet current ANSI American Standards for Nursery Stock.
- L.** Existing vegetation on the property may be used to meet the requirements of this chapter if it meets the size, species and opacity requirements. This determination shall be made by the PSA Administrator. Additional credit toward the interior landscaping requirement for Vehicular Use Areas may be obtained by preserving existing trees per Section 5.20.3B.6.
- M.** Water outlets (hose bibbs) and/or rain barrels shall be provided within 150 feet of all plant material required by this chapter if a subsurface irrigation system is not provided. Plantings may be further than 150 feet from water outlets and/or rain barrels in areas where Xeriscaping plants are used.
- N.** Landform berms shall have slopes no greater than one vertical foot for each three horizontal feet and shall have at least two feet of flat area on top and shall have adequate protection to prevent Erosion.
- O.** Landscaped areas in and adjacent to Vehicular Use Areas shall be protected by concrete curbing, anchored bumper blocks, or other durable materials if approved by the PSA Administrator. Wood timbers that are not part of a structural retaining wall shall not be accepted to meet this requirement. Alternative barrier designs which provide improved infiltration or storage of storm water are encouraged. Curbs separating interior landscape islands from

Vehicular Use Areas may allow storm water runoff to pass through them. Curbs may be perforated or have gaps or breaks.

- P. When landscape islands are used for Bioretention, the ponding area should be at least six inches deep, but not more than 18 inches deep and planted with native wildflowers/forbs and grasses.
- Q. Plant materials shall be selected and installed in accordance with standards established by the PSA Administrator.
- R. Plant material shall be placed to allow full access to fire hydrants and Public Utility systems. A five-foot space clear of vegetation greater than six inches tall shall be maintained around the circumference of fire hydrants, and any access point to a Public Utility system (i.e., water shutoff valve box, sanitary/storm sewer manhole).

#### **5.20.8 Sight Triangles and Intersections<sup>218</sup>**

- A. All landscaping or other screening material within a sight triangle shall be no greater than 30 inches tall, and all trees within a sight triangle shall have all branches trimmed to provide clear vision for a vertical height of eight feet above the roadway surface. Evergreen trees shall not be permitted within sight triangles. The specification for sight triangles found under Sight Distance in Division II of the City Public Services Area Standard Specifications Manual shall be used to determine sight triangle areas.
- B. Vegetation adjacent to intersections shall be maintained to allow for adequate sight distance based on the criteria in the AASHTO (American Association of State Highway Transportation Officials) Policy on Geometric Design of Highways and Streets, 5th Edition (2004), or as subsequently amended.

#### **5.20.9 Plant Substitutions**

- A. The PSA Administrator may approve minor revisions to landscape plant materials due to seasonal planting problems and lack of plant availability. Minor revisions may be approved only when there is no reduction in the quality of plant material, no significant change in size or location of plant material, the new plant material is compatible with the area, and the new plant material is of the same general category (i.e., deciduous shade or evergreen trees) and the same general design characteristics (mature height, crown spread) as the material being replaced.
- B. Following approval of plant substitutions by the PSA Administrator, an as-built landscape plan must be submitted to the CSA for attachment to the approved site plan.
- C. If the criteria in Subsection A are not fulfilled, the approved site plan must be revised according to the requirements of Section 5.29.6.

<sup>218</sup> This section was given its own heading to make it easier to find and to understand that it applies – even to HOAs. It combines standards from current code Secs. 3:14 and 5:606(14).

**5.20.10 Trees in the Public Right-of-Way<sup>219</sup>**

**A.** The City Administrator shall have the sole authority over the planting, maintenance and removal of trees in the ~~street~~ Street Right-of-Way and other City property. No Person without written permission of the City Administrator shall plant, remove, break, spray or take any action that will injure or destroy any tree or shrub, the base of which is located in the ~~street~~ Street Right-of-Way or other City land.

**B. Street Trees Required With Site Plan Developments** <sup>220</sup>

One street tree of the minimum size and species meeting City standards shall be provided for every 45 linear feet of public ~~sStreet~~ ~~Right-of-Way~~ abutting a site plan Site. Existing trees meeting City standards may be used to satisfy all or part of this requirement. A street tree escrow formula shall be established and administered by the Public Services Area for the purpose of planting trees on the public ~~sStreet~~ ~~Right-of-Way~~ abutting new Developments. Deposits into the street trees escrow shall be required prior to issuance of a building permit for the approved Development and shall be returned upon acceptance of the planted street trees.

**5.20.11 Hazards on Public Property<sup>221</sup>**

No tree or other vegetation which by virtue of disease, damage or insect infestation presents a Hazard to Persons or vegetation on public property shall be maintained on private property.

**5.20.12 Weeds and Grass on Public and Private Land<sup>222</sup>**

On private property no turf grass shall be permitted at a height greater than 12 inches. The owner of every parcel of land is responsible for Grading, planting, mowing and raking the extension or City street Right-of-Way so that it is covered with turf grass with an average height not in excess of 12 inches or other ground cover vegetation with an average height not in excess of 36 inches above the adjacent road surface unless it presents a view hazard based on the criteria in the AASHTO (American Association of State Highway Transportation Officials) Policy on Geometric Design of Highways and Streets, 5th Edition (2004), or as subsequently amended. The City shall not be liable for damage to any vegetation planted, or to any property or fixtures placed, in or upon the or the City Right-of-Way that results from work performed by the City in the Lawn Extension or Right-of-Way.

<sup>219</sup> Text of 5:19.11 through 5:19.16 are taken from Chapter 40: *Trees and Other Vegetation*.

<sup>220</sup> Text condensed from Land Development Regulations Attachment C. Street Tree Escrow Regulations.

<sup>221</sup> Section retitled to better reflect its content.

<sup>222</sup> Section combines content from current code secs.3:15 and 3:16 ~~and~~. Title revised to reflect combined content.

**5.21 Streets and Access<sup>223</sup>**

**5.21.1 Applicability**

**A. Compliance Required**

No site plan shall be approved unless the site plan shows Curb Cuts or Openings consistent with the requirements of this Section 5.21 .

**B. Compliance with Chapter Required for Occupancy**

No certificate of occupancy for any Building will be issued under Chapter 100 of this Code unless the property is in substantial compliance with the requirements of this Section 5.21 and have substantially completed the installation of Curb Cuts contained in any approved plat or site plan for the property.<sup>224</sup>

**C. Building Projections into Streets<sup>225</sup>**

Awnings, canopies, marquees, balconies, cornices and other above-Grade projections over Streets, Sidewalks and Alleys from Buildings permitted by Chapter 100 of this Code do not require additional permission pursuant to this Section 5.21 .

**5.21.2 Curb Cuts and Driveway Approaches**

**A. General**

No Curb Cut or Driveway Approach shall be made to a public street or Right-of-Way without first obtaining a permit from the City Administrator. Issuance of such permits shall be made only in accordance with the following regulations:

**B. Number of Openings**

The number of Openings listed in Table 5:21-1 shall be the maximum for any Site, Lot or parcel.

TABLE 5:21-1: MAXIMUM NUMBER OF OPENINGS			
<b>TOTAL STREET FRONTAGE</b>	Up to 100 feet	101 feet to 200 feet	201 feet or more
<b>NUMBER OF OPENINGS</b>	1	2	2 for the first 200 feet plus 1 for each additional 600 feet of total Street Frontage after the first 200 feet.

**C. Curb Cut Design and Location Standards**

Location and design of all Curb Cuts to a public street shall comply with the City Public Service Standards and Specifications.<sup>226</sup>

<sup>223</sup> Text from Chapter 47 *Streets* with changes as indicated.

<sup>224</sup> Revised to read “for the property” rather than “for the Applicant” to match current practice.

<sup>225</sup> Text from following sections is from 4:16 to 4:21.

<sup>226</sup> Existing content of current code subsections 4:20(3) Location of Openings, 4:20(4) Design Criteria, and 4:20(5) Standards for Parking Lots have been moved to the Public Service Area Standards and Specifications.



**D. Traffic Hazards**

Any Openings that are found to be a traffic Hazard may be closed, modified, or relocated by a resolution of City Council after notice and a public hearing consistent with the requirements of Sections 5.28.2 and 5.28.3.

**E. Traffic Control Order**

The direction and restriction of turning movements<sup>227</sup> of traffic entering and exiting through Openings shall be subject to traffic control orders issued pursuant to Chapter 126 of Title X of this Code.

**F. Non-functional Curb Cuts**

If at any time a Curb Cut ceases to be functional, the curb shall be replaced and the Approach removed by the adjoining property owner. No building permit shall be issued pursuant to Chapter 100 of this Code where, as a result of the construction, a Curb Cut would become nonfunctional, unless the building permit provides for the replacement of the curb and removal of the Approach. If a non-functional curb is not replaced by curbing and the Approach removed, that work may be done by the City, after providing notice to the adjoining property owner. The cost of that work shall be assessed in accordance with Chapter 13 of this Code against the Site formerly served by the Curb Cut.<sup>228</sup>

**5.21.3 Private Street Standards<sup>229</sup>**

- A.** Private streets may be provided to access Lots, as defined in Article VIII, subject to the following standards and requirements: A private street shall be located within a minimum 30-foot wide recorded access and utility easement. Additional width or additional easements may be necessary to satisfy all of the standards and requirements of this section, such as the requirement to provide ~~sidewalks~~ **Sidewalks**.
1. The street shall be designed and constructed in accordance with the City Public Services Standards and Specifications, as amended, except that curb and gutter shall not be required when the street serves eight Lots or less.
  2. Traveled lanes shall be a minimum of 11 feet in width.
  3. The width of a two-way private street shall be a minimum of 25 feet from the face of curb to the face of curb, or edges of pavement, or 14 feet for a one-way private street.
  4. Where a private Street serves more than eight Lots, a minimum of one Parking Space per Dwelling Unit shall be provided along the private street. These Parking Spaces shall be located within the street easement and meet either of the following standards:
    - a. Two traveled lanes and parking on one side of the street shall be provided and shall have a minimum pavement width of 30 feet from face

<sup>227</sup> Revised to clarify intent based on current practice.

<sup>228</sup> Subsection on ZBA authority to grant variances and exceptions to Curb Cut standards was deleted as unnecessary in light of general variance authority over all sections of the ordinance provided in Section 5:27(10).

<sup>229</sup> Text is from Sec. 4:30.

of curb to face of curb, or edges of pavement, or 20 feet for a one-way private street; or

- b. Parking Spaces may be provided in parking bays that meet parking standards.
5. Minimum radius at street intersections shall be 20 feet, as measured along the back of curb.
6. A turnaround shall be provided for cul-de-sacs. Minimum radius for a circular turnaround at pavement edge shall be 30 feet where no on-street parking is provided, or 44 feet where parking is provided.
7. Private streets and parking areas within the street easement shall meet City Illumination standards for new parking areas and new public streets.
8. All private streets shall be signed to City standards, with names approved by the CSA.
9. All private streets shall meet City and/or State standards as appropriate for traffic-control devices.<sup>230</sup>
10. A ~~sidewalk~~ Sidewalk system shall be provided which connects to the public walkway system when the private street serves more than eight Lots. All private sidewalks shall be at least four feet in width.
11. Street trees shall be provided as required by Section 5.20 .

#### 5.21.4 Lot Accessibility<sup>231</sup>

##### A. Access to Public Street

Access to a public street shall be provided for all Lots or parcels by one of the following:

1. Abutting a Public Right-of-Way.
2. Abutting a private street easement.
3. For Lots zoned for nonresidential use: A permanent recorded unobstructed access and utility easement that is a minimum of 30 feet in width as shown on an approved site plan may serve as the sole means of access to a Public Right-of-Way or private street. The easement shall include provisions for the maintenance of improvements and utilities. For such Lots, the Lot Line most parallel with the Public Right-of-Way or Private street shall be designated as the Front Lot Line. Other Lot Lines shall be determined as provided in this ordinance. Required Setbacks shall be provided in accordance with the Schedule of Area, Height and Placement regulations in this ordinance, with the exception that if the distance between the Front Lot Line and the Public Right-of-Way or private street is more than the Required Front Setback for the zoning district in which the Lot is located, no ~~required~~ Required Front Setback Area shall be required.

<sup>230</sup> Wording revised slightly for clarity and to reflect current practice.

<sup>231</sup> Text is from Sec. 5:77.



4. For Lots zoned solely for Single-Family Dwelling use: A permanent recorded unobstructed access and utility easement that is a minimum of 30 feet in width may serve as the only means of access to a Public Right-of-Way or private street for a maximum of two Lots or parcels subject to the following:
  - a. Driveways within the easement shall meet all applicable ordinances, including but not limited to Section 5.19 .
  - b. The easement shall include provisions for the maintenance of the Driveway and any other improvements and utilities.
  - c. For Lots where the easement is the only means of access, either the Lot Line most parallel with the Public Right-of-Way or private street, or most perpendicular with the Public Right-of-Way or private street, shall be designated by an Applicant as the Front Lot Line, and the minimum ~~required~~ **Required** Front Setback Area shall be provided for the entire length of that Front Lot Line<sup>232</sup>.

## 5.22 Storm Water 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.<sup>233</sup> Throughout this Section, the Washtenaw County Water Resources Commissioner, and the Commissioner's office, are referred to as "WCWRC".

### 5.22.1 Purpose<sup>234</sup>

- A. 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.
- B. 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

<sup>232</sup> Content on existing easements and Lots now appears in Article VI: Non-conformities.

<sup>233</sup> Text from 5:670.

<sup>234</sup> Sec. 5:650, Intent and 5:651, Purpose have been combined into one purpose statement.

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 storm water quantity are different from the strategies to improve water quality. This section intends to improve the effectiveness of Storm Water Management Systems, bring greater effort to control the sources of runoff, and to improve water quality.

- C. 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 Single or Two-Family Residential Storm Water Management<sup>235</sup>**

A Site with one Single or Two-Family residential dwelling, with or without Accessory Structure(s), that adds 200 square feet or more of Impervious Surface, on-site Storm Water Management Systems shall be required and shall meet the following requirements:

- A. Retention/infiltration of the first flush storm events for the net increase in Impervious Surface, in compliance with the Rules of the WCWRC.
- B. Redirection of all downspouts to vegetated areas or other approved point, but not to Impervious Surfaces, as is required by the "Drainage Nuisances and Complaints" Section of Chapter 100 of City Code.
- C. On-site storm water control is not required for new homes in a site planned Development for which a development-wide system that complies with the storm water management requirements of this chapter has been installed and accepted.<sup>236</sup>

#### **5.22.3 Storm Water Management Systems<sup>237</sup>**

Compliance with the Storm Water Management System criteria of this Section 5.22 is required for any form of construction or removal or disturbance of any Natural Features that requires approval for any site plan, final preliminary plat, or PUD site plan, but is not

<sup>235</sup> Text per ORD-10-36-Ch.63.

<sup>236</sup> Language has been revised to clarify that an exception is only being made where a Development-wide system is in place.

<sup>237</sup> Text from Sec. 5:654.

required for issuance of Grading Permits that do not require site plan, final preliminary plat, or PUD site plan approval.

~~Administrative amendments to approved site plans or Administrative amendments to approved PUD site plans~~ Site plans for administrative approval that do not increase the total impervious area of the Site and are not within the jurisdiction of the WCWRC shall be exempt from the Storm Water Management System requirements of this Section 5.22 .

- A. For Sites within the jurisdiction of the WCWRC; or Sites with Storm Water 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 Storm Water Management Systems serving more than one parcel; the Storm Water Management System shall be reviewed and receive preliminary plan approval from the WCWRC prior to site plan, final preliminary plat, or PUD site plan approval by the City. For Sites that require review by the WCWRC, a permit or letter of final plan approval from the WCWRC Office shall be obtained prior to issuance of a Grading Permit by the City. Any exceptions to the Rules of the WCWRC listed in this Section 5.22 are not applicable to reviews performed by the WCWRC.
- B. For Sites other than described in Section 5.22.3A that contain or are proposed to contain more than 5,000 square feet of Impervious Surface, on-site Storm Water Management Systems shall be required for any Site that is the subject of a site plan, final preliminary plat, or PUD site plan. The Storm Water Management System shall be reviewed and receive approval from the PSA Administrator and meet the design criteria stated in the Rules of the WCWRC, with the following exceptions:
  1. For Sites that contain existing Impervious Surfaces, adding or removing and replacing Impervious Surfaces solely for the purpose of compliance with the Americans with Disabilities Act, or compliance with the State of Michigan Barrier Free Design Rules (Public Act 1 of 1966, as amended) shall be exempt from the Storm Water Management System requirements of this chapter.
  2. Sites proposed to contain:<sup>238</sup>
    - a. Impervious Surfaces greater than 5,000 square feet and less than 10,000 square feet require retention/infiltration only of the first flush storm events.
    - b. Impervious Surfaces equal to or greater than 10,000 square feet and less than 15,000 square feet require retention/infiltration only of the first flush and detention only of bankfull storm events.
    - c. Impervious Surfaces equal to or greater than 15,000 square feet require retention/infiltration of the first flush, and detention of bankfull, and

<sup>238</sup> Changes in section from ORD-10-36-Ch.63.

100-year storm event. Detention facilities designed for the 100-year storm event shall include a Sediment forebay.

3. Public ~~sidewalks~~ Sidewalks are not required to be included in the storm water management calculations.
  4. If the Site is located in an historic district designated by the City, then the Roof area of the historic Building(s) is not required to be included in the storm water management calculations. This exemption does not apply to noncontributing Structures within the historic district.
- C. Within the D1 and D2 zoning districts, or Sites outside the D1 and D2 zoning districts<sup>239</sup> that contain existing Impervious Surfaces, alternative methods of storm water detention may be allowed by the approving body 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 an Architect or Professional Engineer that Storm Water Management Systems have been 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 existing Buildings, loss of existing parking below that required Section 5.19 or protection of Natural Features.
  3. The alternative method of storm water detention is consistent with the intent of this Section 5.22 and the goals of the Rules of the WCWRC, as determined by the City Planning Manager.
  4. The alternative method of storm water detention is specifically approved on a site plan, final preliminary plat, or PUD site plan in a separate motion by the approving body. Where staff is the approving body, the alternative method of storm water detention shall be approved by the Planning Commission.
  5. The alternative method of storm water detention provides an equal or greater amount of resources, in the form of money or land or both, to the City that are at least as beneficial as the required volume of storm water detention that is not being provided on-site. The resources required shall be computed for residential sites at \$2.00 per square foot and commercial sites at \$2.50 per square foot of Impervious Surface not served by a detention facility meeting the design criteria of this section.
  6. The alternative method of storm water detention is provided through one or both of the following methods:
    - a. The Applicant donates money to the City for the express purpose of improving Storm Water Management Systems within the same watershed such as, but not limited to, regional detention, regional water quality improvements facilities, or increasing floodplain storage capacity. The money may not be used for maintenance of existing public facilities.

<sup>239</sup> Revised to refer to D1 and D2 zoning districts instead of the Downtown Development Authority District which is not a specific Zoning District where distinct zoning regulations apply.

- b.** The Applicant donates land to the City for the express purpose of improving Storm Water Management Systems within the same watershed. The donation of land is subject to acceptance by City Council. The donated land shall be suitable to be effectively used for improvements of the storm water system within the same watershed and pass Phase I and II Environmental Site Assessments prior to acceptance by City Council. The value of the land shall be determined by an appraisal prepared by an independent appraiser acceptable to the City Administrator. The appraisal will be submitted to the City Administrator who may use an independent review appraiser to assist with review.<sup>240</sup>
- D.** On a Site that requires the installation of a Storm Water Management System the detention 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 detention facility when conditions, such as a detention facility that is integral to the Structure of a new Building, prevent installation prior to building permits. As-built verification from an Architect or Professional Engineer shall be submitted to the Planning Manager 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 an Architect or Professional Engineer. A sample form may be provided by the Planning Manager upon request.
- E.** Existing Wetlands shall not be modified for the purposes of Storm Water 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.
- F.** 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 storm water management calculations.
- G.** Storm Water Management System facilities shall be designed so that any discharge of storm water 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.
- H.** Prior to the issuance of a Grading Permit, the developer of the Storm Water 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 City Planning Manager 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.

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<sup>240</sup> Revised to reflect correct administrative procedure. The City Administrator would make this determination, not the City Assessor.



**5.22.4 Grading Operation Responsibility**

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

- A. Installing Temporary Soil Erosion and Sedimentation Control Measures before any Earth Change activity, and maintaining the measures on a daily basis.
- B. 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.
- C. Preventing damage to adjacent property. No Person shall Grade land so close to the Lot Line as to endanger any adjoining public ~~street, sidewalk~~Sidewalk, ~~alley~~Alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.
- D. 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 .
- E. Immediately removing all soil, miscellaneous Debris or other material applied, dumped, tracked, or otherwise deposited on streets, ~~highways~~Highways, ~~sidewalks~~Sidewalks, Storm Water 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 to prevent the spread of Debris.
- F. 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.
- G. 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.
- H. 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.
- I. Grading and stabilizing Earth Change areas with Permanent Soil Erosion and Sedimentation Control Measures, and removing Temporary Soil Erosion and Sedimentation Control Measures.
- J. 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.
- K. Making the approved plans and permit available for inspection at all times at the Site of the Earth Change.
- L. Conducting Earth Changes in such a manner that will effectively reduce Accelerated Soil Erosion and resulting sedimentation.

**5.22.5 Maintenance Standards<sup>241</sup>**

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.

**5.22.6 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 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.

**5.23 Natural Features****5.23.1 Purpose and Intent<sup>242</sup>**

It is the intent of this section to establish how Natural Features shall be identified, evaluated, protected, and mitigated, and to require minimum buffers adjacent to Natural Features, as defined herein, and to regulate property within such buffer in order to prevent physical harm, impairment or destruction of or to a Natural Feature. It has been determined that, in the absence of such minimum buffers, intrusions in or on to Natural Features would occur, resulting in harm, impairment and/or destruction of Natural Features contrary to the public health, safety and general welfare. This regulation is based on the City's general police power, for the protection of the public health, safety and welfare, including the authority granted in the City and Village Zoning Enabling Act (Act 207, Public Acts of 1921, as amended) and the Michigan Zoning Enabling Act (Act 110 of 2006, as amended).

**5.23.2 Protected Natural Features**

Seven Natural Features are protected and regulated in the City: Endangered Species Habitats, Floodplains, Woodlands, Landmark Trees, Steep Slopes, Watercourses and Wetlands. Each protected, regulated Natural Feature is discussed in substantial detail particularly with respect to:<sup>243</sup>

- A. A summary of key facets including a perspective on the importance of the Natural Feature to the people of the City.
- B. Means to identify, differentiate and evaluate the Natural Feature.
- C. The general Natural Feature protection priorities of the City, and some perspective on how to measure each Natural Feature's relative importance to others in the City or on the Site.

<sup>241</sup> Maintenance and Liability texts are from Sec. 5:668 *Grading*. The current references are to Chapter 63, but since the original content of that chapter now appears in different portions of the UDC, a general reference to the UDC is appropriate.

<sup>242</sup> Text from Sec. 5:127, with numerous revisions in order to make the content clearer and more enforceable. Throughout this section, historical references unnecessary to the function of the standard have been deleted.

<sup>243</sup> Introduction expanded to identify specific features protected.



- D. Measures for protecting Natural Features during construction.
- E. Guidelines and requirements<sup>244</sup> for mitigating important Natural Features which cannot be excluded from Development.

### **5.23.3 Endangered Species Habitats**

Endangered species are most likely to be found in the midst of natural areas described in this section as "highest concern." When a rare, threatened or endangered species is found, careful assessment should be made of the species and the area in which it is found. These organisms and their habitat may be intolerant of change caused by a Development, such as change in hydrological conditions, even if the habitat itself is outside the Limits of Soil Disturbance for a project. These species and their habitats are important to the City for the richness and diversity of species they offer.

#### **A. Identification**

Within Ann Arbor, the areas most likely to contain endangered species are sandy, wet bottom lands and Wetlands along the Huron River, along its tributaries, and in the many small pocket Wetlands in native forest fragments. Many of these areas can be quite small in size. Rare and unusual endangered species (of ferns, bryophytes, orchids, grasses, etc.) may also be found on disturbed ground—including along shorelines and streambanks, flooded areas, old farmed fields, Borrow Pits, eroding slopes, burned areas, embankments along railroads and roads, in cemeteries, old settlement areas and farmsteads, etc.

#### **B. Protection Priorities**

The protection of endangered species and their habitats are regulated by the State of Michigan Department of Natural Resources (MDNR), in cooperation with the US Fish and Wildlife Service. The City will work in coordination with state and federal regulating agencies to identify the best protection approach, based on the specific characteristics of the species involved. In general, these species and their habitats should be excluded from Development and protected from the impact of Development.

#### **C. Protection Measures.**

1. The City will work in coordination with state and federal regulating agencies to identify appropriate protection measures to sustain the species, based on the specific characteristics and needs of the habitat and species involved.
2. During Grading and construction, barrier fencing shall be installed at the Limits of Soil Disturbance, including all Endangered Species Habitats. Barrier fencing shall be a minimum of four feet in height and shall remain in place in good condition until authorized to be removed. No filling, excavating or storage of materials, Debris, or equipment shall take place within the fenced area.<sup>245</sup>

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<sup>244</sup> Reference to requirements added for accuracy.

<sup>245</sup> Chapter 57, 5:128(1))b), (c), and (d), tailored to Endangered Species Habitat. Applicability to Grading and drainage clarified.

**D. Mitigation.**

Endangered species habitat shall be mitigated in accordance with the Michigan Natural Resources and Environment Protection Act, 1994 PA 451, as amended to date<sup>246</sup>. Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be such that it will approximate the density and coverage before disturbance within three years of planting.

**5.23.4 Floodplains (100-Year)**

Floodplains serve to minimize damage to land and water resources because of their capacity to store water. In so doing they control Erosion, silting, and contamination of water features and aquatic wildlife. Healthy, stable plant life is important in determining a Floodplain's capacity and function in slowing, filtering, and cooling water moving through them.<sup>247</sup> Floodplains also may qualify as Wetland or Watercourse Natural Features.

**A. Identification**

Floodplains, Floodways and Watercourses that have watersheds two square miles or larger are officially mapped and regulated under provisions of ~~Federal~~federal and ~~State~~state statutes. Floodplain and Floodway boundaries are available on Flood Insurance Rate Maps (FIRM), produced by the Federal Emergency Management Agency (FEMA). The City may request, and if requested a ~~petitioner~~Applicant shall provide, investigation and mapping of flooding zones along Watercourses on Sites not officially mapped. If substantial flooding potential exists, and Buildings and structures are proposed in the Floodplain, the City may request, and if requested a ~~petitioner~~Applicant shall provide, formal hydrological studies to determine the long-term safety and the hydrological and environmental soundness of a proposed project.

**B. Protection Priorities****1. Highest Concern**

Floodplains with natural plant life and natural landform conditions are very important to protect from Development. They involve native Floodplain forest fragments (extremely rare), or native sedge or fen meadows (rare and important natural areas, potentially habitats for rare species in the City). These areas not only are rich biologically, but provide floodplain function.

These Floodplains of highest concern should be preserved as part of any Development proposal (which means not only is there no disturbance to soils, but there is no disturbance to surface and subsurface hydrological regimes). In cases where these habitats exist and are being invaded by exotics, every reasonable effort should be taken to restore the habitat as part of a Development proposal. Where enhancement of capacity and function can be done, it should be.

<sup>246</sup> Chapter 57, 5:127(1)(b)

<sup>247</sup> Statement that floodplains are not desirable locations for storm water detention was deleted.

## 2. Midlevel Concern

Forested Floodplains dominated by exotics, including black alder, several willows, and Floodplain meadows dominated by cattails or purple loosestrife are of midlevel concern. Even with the presence of exotics, forested Floodplains are vital to the continued function/capacity of the floodplain. Whenever possible, these areas should be left undisturbed. Restoration of these areas with native plants is usually useful in enhancing its function, appearance, and wildlife value.

Floodplains of midlevel concern should not be built upon. In any case, the Floodplain's function and capacity should not be diminished. Where enhancement of capacity and function can be done, it should be.

## 3. Lowlevel Concern

Floodplains characterized by paving or turf or otherwise cleared land are of low level concern. They can further be developed or redeveloped as necessary. A key concern to guide such decisions should be whether there are flooding and water quality problems in the watershed, and what opportunity exists for mitigation to address these problems through the proposed Development or redevelopment.

### C. Protection Measures

1. Soil Erosion on any construction Site in any Floodplain should be minimized to the maximum extent practicable. Special, effective soil Erosion and flood protection techniques should be devised and required in each instance, during construction and for as long afterward as it takes for vegetation to become very well established and for soils to be stable during storm/flooding events. These techniques and devices need careful design and maintenance to protect against washout in storm events and damage to water resources.
2. Barrier fencing shall be installed at the Limits of Soil Disturbance including any Floodplain. Barrier fencing shall be a minimum of four feet in height and shall remain in place in good condition until authorized to be removed. No filling, excavating or storage of materials, Debris or equipment shall take place within the fenced area.

### D. Mitigation

Floodplain areas shall be mitigated to provide no net loss of flood storage capacity and shall comply with any conditions of a valid permit from the Michigan Department of Environment Quality in accordance with the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended to date. If mitigation is proposed off-site, it shall be located in the same watershed as the development Site.<sup>248</sup> Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be

<sup>248</sup> From Chapter 57, 5:127(1)(c)

such that it will approximate the density and coverage before disturbance within three years of planting.

#### **E. Guidelines for Best Mitigation Practices**

1. Where the actual volume/land area of a Floodplain is affected by a proposed Development, the volume/land area of the Floodplain lost should be restored elsewhere on the Site or in the watershed.
2. Where paved surfaces are proposed in a Floodplain, they should be minimized to the fullest extent possible. The area of paved surface on a Site in a Floodplain should be mitigated by new Floodplain with native Floodplain species installed elsewhere on the Site or elsewhere in the watershed, or it should be mitigated by a landscape design for the Site that enhances Floodplain function.
3. Where forest fragments, fen and sedge meadows are removed or disturbed, they should be mitigated to replicate equally valuable Natural Features on the Site or in some other location in the watershed.
4. Lesser quality plant communities should also be replaced, but the level of diversity of the mitigation may be less (using native associations is more desirable).
5. To the fullest extent possible, regardless of existing conditions, landscape design for a project proposed in a Floodplain should avoid turf and use (preferably native) associations of plant materials that can become effective on the Site as healthy Floodplain plant communities.
6. Alternate mitigation (when these procedures are not possible) could include management of other Natural Features on the Site<sup>249</sup> or restoration work on Floodplains elsewhere on the Site or within the watershed. They might include addition of storm water control facilities beyond other code requirements.

#### **5.23.5 Woodlands**

The City's Woodlands are of two primary types, either planted and volunteer, or naturally regenerating native forest. Whether planted, volunteer naturally regenerating native forest, or a grove of old trees, Woodlands are important to the scenic and biological quality of life of the City.<sup>250</sup>

##### **A. Identification**

###### **1. Native forest fragments**

Native forest fragments are visible on early low altitude aerial photographs of the City, before the invasion of exotic Woody Plants. These fragments are typified by their unfarmed soils and by the combination of plants constituting an ecosystem association recognizable as dating back to 1824. These fragments can be Floodplain forests (Black and Silver maples, Red ash, hickories), wooded mesic or Wetland forests (red oak and red maple), dry forests on the tops of sand and gravel filled moraines and kames (White oak,

<sup>249</sup> Reference to management of other features is new.

<sup>250</sup> Introduction revised for clarity.

Hickories and White ash), to mesic forests on moister upland soils (Sugar maple, Red maple and American beech). A very wide variety of species existed as part of these associations, and can be present in the regenerating fragments.<sup>251</sup>

## **2. Urban Woodlands**

Urban Woodlands are areas which have the density necessary to meet the definition of Woodland used by the City, but which are not native forest fragments. Groves of planted trees, often of pines or spruces are found throughout the City. Volunteer trees may come into an area so densely as to create a Woodland under the definition. Some people may plant and cultivate trees densely enough to qualify. These landscapes do not function as self-sustaining ecosystems, but they can function as valuable wildlife habitat, can provide great scenic resource, do influence the climate, and make life in the City more enjoyable for people.

## **3. Pioneer Woodlands**

Pioneer Woodlands are those which arise on disturbed soils, such as soils which have gone through a period of cultivation in the European monocultural style, or soils which have been overturned, moved, or graded to the extent that seed (and the related, beneficial soil microflora) for regenerating the ecosystem is destroyed or greatly diminished. Pioneer Woodlands are usually found on abandoned farm fields or waste sites of various sorts. These Woodlands are often dominated by invasive exotic shrubs and are impoverished wildlife sites.

In some cases, native forest fragments are colonizing into fields once farmed adjacent to them. These areas are rich wildlife habitats and should be treated with care, along with the native forest fragments.

## **B. Protection Priorities**

### **1. Highest concern:**

Native forest fragments, particularly those that still have a wide diversity of native species at all levels (woody and herbaceous plants) are the most important Sites to protect from Development and from the impact of Development. Many of these Sites have been and are being rapidly invaded by exotic species (of shrubs, primarily), and need active care as well as protection to sustain them. The highest quality among these fragments should not be built upon. These fragments should be retained as public land and managed as natural areas. Effort should be made to preserve and protect all remaining native forest fragments to the fullest extent possible. Further fragmentation is not desirable.

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<sup>251</sup> References to specific groves of trees in the ~~city~~-City were removed.

**2. Midlevel concern:**

Ann Arbor's urban Woodlands are directly derived from people's planting activities, as the City developed. Woods and trees involved in these settings very likely have considerable importance to people who live near them.

**3. Lowlevel concern:**

Generally speaking, pioneer Woodlands that are now developing in the City are often dominated by exotic trees and shrubs, with an occasional large native tree that a farmer retained in his field. New, well designed and well planted built landscapes would be more appealing and more valuable in the long term, than protecting these Woodlands. Vegetation must be removed in order to return it to a more natural and pleasing landform. Landmark Trees and other valuable features may exist on the Site. If so, they would be key concerns in the design of Development for these areas. Rare, endangered species can also exist on disturbed Sites.

**C. Protection Measures**

1. Native forest fragments excluded from Development should be defended from all intrusions during Development by well-maintained barrier fencing<sup>252</sup>.
2. Where native forest fragments are to be built in, but not completely removed, then those areas to be excluded from Development should be clearly fenced during the process. Grading, roads, walkways, utility lines, and all other aspects of soil disturbance should be minimized to the fullest extent that sound design and public safety will allow.
3. Clearing for Buildings should be strictly minimized to the least area needed to work around Buildings. Excavated spoils from basements and other needed Grading should not be spread on the Site in the native forest fragment area. Very careful handling of trees near the building envelope should be undertaken to the fullest extent possible.
4. Where management of retained native forest fragments is undertaken, these activities should be conducted according to the principles and techniques described in a well-developed management plan. Advice from qualified natural area managers should be sought and included in such plans. A key element of these plans should be the control of Invasive Species, which threaten natural areas throughout the City.
5. The most effective way to save trees is by planning ahead for their protection. Four steps will help accomplish this:
  - a. Delineate areas with severe limitations and stay away from them (provide barriers).
  - b. Design the Site to minimize Grading/soil disturbance in the vicinity of retained trees.

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<sup>252</sup> This acts as 5:128(1) for Woodlands.



- c. Provide for adequate and effective storm water management.
  - d. Design landscape installations to complement and honor retained trees.
- 6.** In addition to protective fencing at the Critical Root Zone, a number of other construction techniques can help save trees. These include placing utilities under pavement instead of under trees; tunneling utilities under trees instead of trenching; using granular material when placing minimum amounts of Fill over roots; excavating by hand; and keeping heavy equipment and vehicle traffic away from the Critical Root Zone. Grading changes should not either increase or decrease moisture conditions in the Critical Root Zone.
- 6.7.** Any protected Woodland that is determined by PSA Administrator to be dead, dying or severely damaged due to on-site construction activities within three years after issuance of a certificate of occupancy or final permit approval for development authorized by an approved site plan, PUD site plan, or plat shall be replaced by the property owner in the amount specified in the requirements for mitigation of Woodlands. If the site plan, PUD site plan, or plat has been compiled with, replacement shall be at the lesser rate. If the site plan, PUD site plan or plat has not been compiled with, replacement shall be at the greater rate.

#### D. Mitigation<sup>253</sup>

1. A replacement tree or a combination of trees of a species native to Michigan shall be provided to equal a minimum of 50% of the original DBH for each Woodland tree eight inches or larger that is removed. Replacement trees shall be non-sterile varieties. The minimum size of deciduous replacement tree shall be one inch caliper. The minimum size of an evergreen replacement tree shall be five feet in height. If more than 20 replacement trees are required, a mixture of three or more species must be used.
2. A replacement tree or a combination of trees of a species native to Michigan shall be provided to equal a minimum of 200% of the original DBH for each Woodland tree eight inches or larger that is removed without the approval required by this chapter.
3. Mitigation shall be provided on the same Site as the removed Woodland trees to the maximum extent feasible as space and long-term tree health allow. Where mitigation cannot be accomplished on the Site, all or part of the mitigation may be provided on public land within the ~~city~~ City if approved as part of the site plan or plat<sup>254</sup>.
- 3.4. Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance.

<sup>253</sup> Chapter 57, Section 5:127(1)(d) with references to Landmark Trees removed.

<sup>254</sup> Chapter 57, 5:127(3) tailored to Woodlands.



## **E. Guidelines for Best Mitigation Practices**

1. When native forest fragments must be taken in whole or in part, they should be mitigated by the installation of replacement trees or by the creation of an area planted with a comparable plant association (trees, understory trees, shrubs, herbaceous plants – not including exotics) on the Site or elsewhere in the City.
2. Where a valuable native forest fragment must be partly destroyed by Development, the balance of the fragment should be actively managed as a natural area, to sustain it into the future. This includes the important task of controlling invasive exotics.
3. Urban Woodlands may also have considerable value to City residents. Development in them should be handled as sensitively as possible. Tree replacements for trees taken from such a Woodland should be replaced on the Site in a manner that complements the character of Woodland. Landscape design of the Site should also complement the character of the Woodland, and should be sensitive to screening and otherwise providing affected neighbors with pleasant views into the Site.
4. Care should be taken during the Development process to conserve topsoils which must be disturbed on site, and to install plant materials into optimum conditions. Compacted soils placed by heavy machines are not suitable for successful establishment of many types of plants. Retained topsoils can be used in new planting zones to great benefit.
5. Alternative mitigation plans which could be negotiated could include management or restoration of comparable Natural Features on the Site or on public lands elsewhere in the City, or donation of trees to the City to be planted on public land, donation of time and materials to assist the City in managing valuable natural areas on public land. Valuable Wetlands on the Site or elsewhere could be enhanced, storm water retention capacity could be increased, and Floodplain capacity and function could be improved – each beyond that already required by code.

### **5.23.6 Landmark Trees**

Large, old, picturesque, rare, well-located, or otherwise special and interesting trees play an important role in the character of individual properties, and in the fabric of the City as a whole. All the trees in the City together have positive effects on the climate of the City, on its ability to attract and sustain wildlife, and on its visual beauty.

#### **A. Identification**

1. Trees which qualify as Natural Features are, generally speaking, any tree larger than 24 inches in Diameter at Breast Height and any tree of a size listed on the Landmark Tree List (See Table 5:23-1).
2. Large trees in natural areas (native forest fragments or forested Wetlands or floodplain forest fragments) will often qualify as Landmark Trees.
3. Landmark Tree List

Table 5:23-1 LANDMARK TREE LIST		
Common Name	Scientific Name	DBH
Ash	Fraxinus spp. (not cultivars)	18"
Basswood	Tilia spp.	18"
Beech	Fagus spp.	18"
Buckeye (Horsechestnut)	Aesculus spp.	18"
Cherry, Black	Prunus serotina	18"
Elm	Ulmus spp. (except pumila)	18"
Fir	Abies spp.	18"
Fir, Douglas	Pseudotsuga menziesii	18"
Kentucky Coffee Tree	Gymnocladus dioicus	18"
Maple, Silver	Acer saccharinum	18"
Pine	Pinus spp.	18"
Spruce	Picea spp.	18"
Sycamore; London Plane	Platanus spp.	18"
Tuliptree	Liriodendron tuliperifera	18"
Walnut, Black	Juglans nigra	18"
Hickory	Carya spp.	16"
Honey Locust	Gleditsia triacanthos	16"
Maple	Acer spp. (unless otherwise noted)	16"
Oak	Quercus spp.	16"
Arborvitae	Thuja occidentalis	12"
Bald Cypress	Taxodium distichum	12"
Birch	Betula spp.	12"
Black Tupelo	Nyssa sylvatica	12"
Cherry, Flowering	Prunus spp.	12"
Crabapple (cultivar)	Malus spp.	12"
Dawn Redwood	Metasequoia glyptostroboides	12"
Eastern Hemlock	Tsuga canadensis	12"
Ginkgo	Ginkgo biloba	12"
Hackberry	Celtis occidentalis	12"
Hawthorn	Crataegus spp.	12"
Larch/Tamarack	Larix spp.	12"
Pear	Pyrus spp.	12"
Persimmon	Diospyros virginiana	12"
Populus	Populus (except deltoides, alba)	12"
Sassafras	Sassafras albidum	12"
Sweetgum	Liquidambar styraciflua	12"
Yellow Wood	Cladrastis lutea	12"
American Chestnut	Castanea dentata	8"
Butternut	Juglans cinerea	8"
Cedar	Juniperus spp. & upright cultivars	8"
Cedar of Lebanon	Cedrus spp.	8"
Eastern Redbud	Cercis canadensis	8"
Dogwood, Flowering	Cornus florida	8"
Hornbeam, Blue Beech	Carpinus spp.	8"
Ironwood	Ostrya virginiana	8"
Maple, Mountain/Striped	Acer spicatum/pensylvanicum	8"
Pawpaw	Asimina triloba	8"

## B. Protection Priorities

### 1. Highest concern

The most important Landmark Trees to protect are ones which are rare, unusual, old or historically significant. Certain trees may play a special role

in the visual resources of a Site or an area. If the trees are native to Ann Arbor (known to have grown here in 1824), they are particularly important to protect.

## 2. Midlevel concern

Trees which are mature, late succession species, provide wildlife habitat or visual screening, represent good diversity of species, have interesting flowers or other features, or are in proximity to a native forest fragment and are related to it.

## 3. Lowlevel concern

Pioneer species of Woody Plants arising on Sites with highly disturbed soils, trees and shrubs not native to the region and known to be invasive (seeding prolifically and naturalizing into the neighborhood or into natural areas). Generally speaking, a fine quality planted landscape can be more valuable in the long term, and more appealing to more people in the short term than many pioneer Woodlands in the City.

### C. Protection Measures

1. All tree roots are vulnerable to disturbance, and some species are more so than others. All construction activity (including the affects on soil moisture and drainage of Grading changes in the area) should be excluded from the Critical Root Zone of trees to be preserved according to submitted plans.<sup>255</sup> These activities should be avoided to prevent and minimize damage or destruction of tree roots, threatening the life of trees: Soil compaction from vehicle and machine parking and traffic, excavation or Filling, storage of materials, Grading changes that affect soil moisture in the root zone at any time, and insensitive landscape design and installation techniques (including irrigation).<sup>256</sup>
2. Activities which help prevent and minimize damage or destruction to roots are encouraged, including the placement of utilities under pavement instead of under trees; tunneling utilities under trees instead of trenching; using granular material when placing modest amounts of soil over roots; excavating by hand; and keeping equipment and vehicles away from the Critical Root Zone.<sup>257</sup>
3. Barrier fencing shall be installed at the limits of the Critical Root Zone for Landmark Trees. Barrier fencing shall be a minimum of four feet in height and shall remain in place in good condition until authorized to be removed. No filling, excavating, storage or trespass by ~~person~~ Person or machine shall take place within the fenced area.

3.4. Any protected Landmark Trees that are determined by PSA Administrator to be dead, dying or severely damaged due to on-site construction activities within three years after issuance of a certificate of occupancy or final permit approval for development authorized by an

<sup>255</sup> Introductory language simplified.

<sup>256</sup> Text revised to clarify duty to install fencing.

<sup>257</sup> New provision.

approved site plan, PUD site plan, or plat shall be replaced by the property owner in the amount specified in the requirements for mitigation of Landmark Trees. If the site plan, PUD site plan, or plat has been compiled with, replacement shall be at the lesser rate. If the site plan, PUD site plan or plat has not been complied with, replacement shall be at the greater rate.

#### D. Mitigation<sup>258</sup>.

1. A replacement tree or a combination of trees of a species native to Michigan shall be provided to equal a minimum of 50% of the original DBH for each Landmark Tree that is removed. Replacement trees shall be non-sterile varieties. The minimum size of deciduous replacement tree shall be one inch caliper. The minimum size of an evergreen replacement tree shall be five feet in height. If more than 20 replacement trees are required, a mixture of three or more species must be used.
2. A replacement tree or a combination of trees of a species native to Michigan shall be provided to equal a minimum of 200% of the original DBH for each Landmark Tree that is removed without the approval required by this chapter.
3. Mitigation shall be provided on the same Site as the removed Landmark Trees to the maximum extent feasible as space and long-term tree health allow. Where mitigation cannot be accomplished on the Site, all or part of the mitigation may be provided on public land within the ~~city~~ City if approved as part of the site plan or plat.<sup>259</sup>

~~3.4.~~ Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristics of the plant communities of the area before disturbance.

#### E. Guidelines for Best Mitigation Practices

1. Required or desired replacement should include the most appropriate, non-invasive species as part of the project design. Replacement requirements include using species native to Michigan, and a diversity of species in a range of sizes. Where trees are taken from a natural area, it is the natural area which should be replaced or restored at some other location-involving much more than just tree planting. Trees which go into such a project may need to be smaller in size to find enough of the species needed to make a viable start to creating an ecosystem.
2. Replacement trees need a chance to become as great as the trees they replace. Genuine concern for soils and cultural needs of new plants should be a part of the design process. Many species of trees will never thrive in compacted, Fill soils or in conditions not suitable for their optimum growth. Recognition of these realities is critical to successful replacement.
3. Where it is not possible to install the number of trees required, alternate mitigation plans may be developed – including active management or restoration of natural areas on the Site, planting of trees on public land

<sup>258</sup> From Chapter 57, 5:127(1)(d) with references to Woodlands removed.

<sup>259</sup> Chapter 57, 5:127(3) tailored to landmark trees.

elsewhere in the City, additional storm water controls beyond that required and of help with flooding conditions on the Site or in the watershed, donation of public land on the Site or elsewhere, etc.

### **5.23.7 Steep Slopes**

Steep Slopes in Ann Arbor are found on the sides of moraines, kames, and ravines, and the eroded valleys of waterways.

Steep Slopes are prone to Erosion if the vegetation on them is disturbed, or if surface runoff is directed toward them or down them. As a result, disturbed slopes often result in deposition of soils in Watercourses and on the land below. Hydrologic functions such as infiltration, frequency and volume of discharges, and impacts of the proposed Development upon water resources on and off site must be considered.

The City's Steep Slopes still often retain on them or adjacent to them various Wetlands, prairie-savannas, rare species, Floodplains, Watercourses, and the City's largest areas of native forest fragments. Steep Slopes with native forest fragments or other overlapping Natural Features have high natural and scenic value.

Scenic values are measurable. Each Site can be quantified for its relative overall scenic value as viewed from vista points off the Site. Steep slopes, especially those in the Huron River Valley still covered by native forest fragments, are the most important natural scenic assets of the City. Vistas of unbroken native forest tree Canopy, visible on Steep Slopes and moraine tops, are vital to maintain across the City.

#### **A. Identification**

1. Steep Slopes are naturally occurring landforms with a vertical change in elevation of ten feet or more, a slope of 20% or more, and a length of 50 feet or more, measured parallel to the contour lines. They are identified on the "Map of Steep Slopes of Ann Arbor, 2004." Most Steep Slopes in the City occur in the Huron River corridor or along its tributaries.
2. Also shown on the map are zones 3,000 feet each way from the centerline of the Huron River, and zones 500 feet each way from the centerlines of the tributary streams in the City. These zones encompass the great majority of Steep Slopes in the City, and are an initial approximation of the areas in which there are likely to be both other Natural Features of high concern and slopes of high visual sensitivity.

#### **B. Protection Priorities**

##### **1. Highest concern:**

- a. Extremely Steep Slopes of 40% or greater anywhere in the City are of highest concern. These are predominantly adjacent to the River and typically also include one or more other Natural Features.
- b. Steep Slopes of 20% or greater that are within 3,000 feet of the Huron River or within 500 feet of its open or historic tributaries and that: a) have native forest fragments or other high quality Natural Features in addition to the Steep Slope; or b) serve as a source of water for adjacent or connected water features; are of highest concern.

- c. These Natural Features need to be sustained and cared for as natural areas. In the event the public benefits of a proposed Development in an area of highest concern are deemed to outweigh the benefits of maintaining it as a protected natural area, the project shall meet the highest standards of mid-level concern. When Steep Slopes are considered for Development the impact on the City's visual character shall be considered, and negative impacts minimized in the approval process.

**2 . Midlevel concern:**

- a. Steep Slopes within 3,000 feet of the Huron River or within 500 feet of its open or historic tributaries that do not meet the criteria for highest concern are of mid-level concern.
- b. The landform and vegetation on these slopes must be disturbed to the least extent possible. The visual integrity of the Site in relation to adjacent areas should be maintained. The techniques for Erosion and water protection described for low-level Steep Slopes shall be followed.

**3 . Low-level concern:**

- a. Steep Slopes not within 3,000 feet of the Huron River or within 500 feet of its open or historic tributaries are of low-level concern.
- b. Development on Steep Slopes requires special techniques to prevent soil Erosion and to protect water resources. A study of ground and surface water flows of the Site may be required to understand possible on- and off-site impacts of a proposed Development on the water resources. Landscape work on these Sites should be designed to restore native ecologies, to reduce storm water runoff, to enhance infiltration, to increase flood storage capacity, to allow only clean water to exit the Site, and to honor natural linkages and natural areas and adjacent water features. Soils must not be permitted to wash from these Sites under any circumstances.
- c. The Site's design should incorporate the slopes so that the Development complements the character of the landforms, vegetation and topography. Any Development must meet all the standards for any other Natural Features of the Site.

**C. Protection Measures**

1. Barrier fencing shall be installed at the Limits of Soil Disturbance adjacent to Steep Slopes. Barrier fencing shall be a minimum of four feet in height and shall remain in place in good condition until it is authorized to be removed. No filling, excavating or storage of materials, Debris or equipment shall take place within the fenced area.<sup>260</sup>

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<sup>260</sup> Chapter 57, 5:128(1)(b), (c), and (d) tailored to Steep Slopes.



2. Protection measures must be in place before landform or vegetation disturbance to prevent any off-site damage. Any damage to waterways or off-site locations from Erosion must be promptly repaired to the fullest extent practical, using best management techniques. A heavy rain event is not an excuse for such damage to occur. Collateral damage during and after construction to Canopy trees on scenically important Sites must be scrupulously avoided (it will take 150 years to replace any unintended losses). Plans presented for Development on Steep Slopes must reflect sound analysis of scenic values, must show very serious concern for soil Erosion controls, and have very carefully crafted limits of disturbance lines, and must indicate procedures whereby all contractors, subcontractors, owners and inspectors are fully and continuously informed of the values on the Site that must be protected, without errors.
3. Great attention should be exercised in the approval and inspection process regarding the design of drainage systems, roads and paved surfaces, retaining walls, and the means by which the entire project will actually be constructed, to avoid collateral, unintended damage. The use of retaining walls can reduce the amount of Grading necessary, but are not encouraged (they are rarely durable structures). If retaining walls are proposed, the use of walls that incorporate vegetation are encouraged to improve aesthetics. Underground utilities should not be located in Steep Slopes and should not run lengthwise along them. Drainage should be directed to inlet structures and not be permitted to flow down slopes during and after construction.
4. The primary goal in protecting Steep Slopes is to prevent Erosion and subsequent damage to Natural Features on and off the Site. Underground utilities should not be located in Steep Slopes, and should not run lengthwise along them. Drainage should be directed to inlet structures and not be permitted to flow down slopes during and after construction.<sup>261</sup>
5. Protection measures for other Natural Features placed at risk by intrusion onto a Steep Slope should be designed and implemented in such a way that risk of damage to the Natural Features involved is the minimum possible. These provisions may need to be significantly more strenuous than those which might be implemented for the same Natural Features on flat ground.

#### D. Mitigation<sup>262</sup>

Disturbed areas of Steep Slopes shall approximate the natural terrain and be planted with native vegetation at the completion of construction. No new drainage may be directed over areas of disturbed slope. Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be such that it will approximate the density and coverage before disturbance within three years of planting.

<sup>261</sup> Text simplified to avoid repetition.

<sup>262</sup> From Chapter 57, 5:127(1)(e)



### **E. Guidelines for Best Mitigation Practices**

1. If any portion of a high or mid-level concern Steep Slope must be disturbed as part of an approved project, then the balance of the Steep Slope area must be protected from disturbance during construction and it must be managed/restored as a natural area thereafter. This means considerable attention will be paid to herbaceous, understory, and Canopy flora. The built landscape around any approved Buildings shall use minimum Impervious Surface, and shall be very complementary to the adjoining natural area. Roof water on the Site and other surface rainwater drainage systems on the Site are to be designed to infiltrate to groundwater (where possible) in such a way as to approximate infiltration on the site prior to the project (runoff from roads may need cleaning first). The use of green Roofs are encouraged to reduce runoff. The design of the Building and its location on the Site should not diminish the views of or character of the views of the Site, i.e. removal of a closed native forest Canopy.
2. Change to any Natural Features on a Steep Slope Site must meet the mitigation standards for those Natural Features. Replacement materials, techniques, and long-term maintenance routines required as mitigation should serve to restore the visual character of the Site.
3. Follow-up monitoring may be required in some instances for a period of time related to the duration of the restoration work or recovery from damage.

#### **5.23.8 Watercourses**

The preeminent Natural Feature in the City is the Huron River, its tributaries, and the glacial landforms and topography which embrace them.

These Watercourses bring water to and through a property and, together, create vital wildlife corridors through the City. They are key components of scenic beauty and of outdoor attraction for people in the City, and on many individual properties. They also serve the practical function of providing drinking water, either directly (the City's main water supply intakes are in Barton Pond) or indirectly by the primary conduits of ground water recharge.

The Huron River is the main Watercourse through the City. Other Watercourses in the City are tributaries and subtributaries of the Huron River. Many parts of streams and some entire streams no longer exist above ground. They have been placed underground in storm pipes (e.g., Allen Creek). Most of the remaining tributaries are in poor condition because they have been overwhelmed by the increased runoff generated by Development of the City.

Construction of structures in Watercourses and bottomlands of lakes and ponds is regulated by state statute, under permits issued by the Department of Environmental Quality. The purpose of state requirements are to minimize dredging and filling in Watercourses and in bottom lands, to minimize negative impacts which result from

necessary activities of this sort, and (in the case of Wetlands which are associated with these projects) replace the lost resources.<sup>263</sup>

### **A. Identification**

Many streams and bodies of water qualifying as Watercourses and bottomlands will be visible on aerial photographs and maps, many small ponds and the uppermost reaches of some streams may not. These features are readily identifiable in the field. Watercourses are clearly delineated on Floodplain maps. In the upper reaches of watersheds too small for those maps to have been done, Watercourses can and should be identified as the top of the bank of the channel carrying water or as the ordinary high water mark line of a pond. Streams in the City may cross relatively steep terrain, and are likely to be combined with other valuable Natural Features, including valuable Woodlands, Wetlands and Floodplains.

### **B. Protection Priorities**

It is in the City's best interest to protect Watercourses in as natural a condition as possible, and to control storm water in watersheds in such a way that Watercourses are not damaged and eroded during storm events. While storm water is also regulated by this ~~Chapter~~chapter, the design of many elements on each Site directly determines the way water is handled and what impacts it will have both on and off the Site.

#### **1. Highest concern:**

Watercourses with natural areas around them (Wetlands or native forest fragments), Watercourses integrated into steep terrain, and Watercourses still flowing in natural channels should be preserved as part of any Development proposal. Crossing locations should be kept to the minimum necessary to provide access. Wide buffers should be provided to maintain a corridor for wildlife along stream ways. Where streams in these conditions exist on a Site, they are likely the most important design element of the Site. The design should capitalize on the value of these features and sustain them.

#### **2. Midlevel concern:**

Urbanized aboveground Watercourses are ones that no longer have much of a natural character, but have not been placed into a storm drain beneath the ground. Whenever possible, Development should restore these Watercourses and associated Natural Features and take advantage of them as a design amenity. Effort to control Erosion, sedimentation, and contamination problems is strongly encouraged, as is the connection of natural corridors across properties.

#### **3. Low-level concern:**

Where Watercourses are already underground, Floodplain capacity and function are the main concern. Restoration of the surface Watercourse is encouraged, particularly if the effort can assist in storm water control.

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<sup>263</sup> Text simplified.

### C. Protection Measures

1. A Natural Feature buffer area within a line measured 25 feet horizontally from the ordinary high water mark of a Watercourse shall be provided adjacent to a Watercourse and maintained in relation to the entire Watercourse as a “Natural Feature” unless, and to the extent, it is determined to be in the public interest not to maintain such area under the standards provided in Section 5.29.4.
2. Prohibited and permitted activities for the Natural Feature buffer area shall be the same as the prohibited and permitted activities regulated or allowed in or on the Watercourse, unless prohibited activity is determined to be in the public interest and authorization has been granted by the Planning Commission under the standards provided in Section 5.29.4<sup>264</sup>.

### D. Mitigation<sup>265</sup>.

Mitigation for disturbance of Watercourses shall be provided according to the requirements of a valid permit from the Michigan Department of Environmental Quality in accordance with the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be such that it will approximate the density and coverage before disturbance within three years of planting.

### E. Guidelines for Best Mitigation Practices.

Watercourses should be crossed at the location where there is the least physical, scenic, and biological impact upon the Watercourse and its surrounding Natural Features. If surrounding Natural Features must be disturbed to facilitate the crossing, they should be mitigated as prescribed in this section and by other code requirements.

## 5.23.9 Wetlands

### A. Purpose<sup>266</sup>

1. Preservation and enhancement of Wetlands is essential to maintaining and improving the ~~city's~~ City's aesthetic character, its ecological stability, its economic well-being, its educational opportunities, and its quality of life.
2. Wetlands are protected to help reduce damage to aquatic resources from Erosion, turbidity, siltation, and contamination. They are protected to minimize the loss of native plants and animals, to help preserve biological diversity and to minimize the loss of wildlife habitat within the ~~city~~ City, and to sustain many benefits Wetlands can help provide - including flood control, stormwater storage and release, ground water recharge, and water quality improvement.

<sup>264</sup> This is a combination of 5:51(1), (2), (4) and (6) regarding Natural Features Open Space tailored to Watercourses.

<sup>265</sup> From Chapter 57, 5:127(1)(f)

<sup>266</sup> Chapter 60, 5:200.

## **B. Identification**

Wetlands may be visible in low altitude aerial photos, particularly older ones prior to the invasion by exotic shrubs and trees. A map of potential Wetland areas is on file in the City Planning Department.<sup>267</sup> The boundaries of Wetlands shall be determined by considering vegetation and soils in the field.

1. The physical boundary and extent of Wetlands shall be identified by a professional having technical ability and experience sufficient to accurately identify Wetland boundaries.
2. Wetland determination shall be made using the same criteria as provided for Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, and administrative rules as amended.
3. To facilitate verification, the boundary of the Wetland shall be flagged in the field by the Applicant prior to the application for a Wetland Use Permit.<sup>268</sup>

## **C. Protection Priorities**

### **1. Highest Concern:**

Large Wetland complexes, forested Wetlands, and Wetlands along Watercourses, with native plant associations still intact or regenerating. These habitats should be carefully protected from Development and from effects of Development (no change in hydrology). In general, Wetlands with important native ecosystems cannot tolerate use as retention basins for storm water runoff from developed areas. A separate filter and retention system should be developed, so that impacts upon the Wetland are minimal.

### **2. Midlevel Concern:**

Disturbed Wetlands with underlying hydric soils, such as on once farmed lands, constitute genuine opportunity to restore some of the capacity and function and diversity of species removed from the City over the last 100 years. Maintaining and enhancing the biological and hydrological value and function of these Wetlands should be the primary concern. Use of these Wetlands as retention basins may be acceptable, as long as there are separate filtration basins and as long as the volumes of water involved do not overwhelm the plant life which must be sustained in the Wetland.

### **3. Low-level Concern:**

Low quality Wetlands are those that have been greatly damaged, have been reduced to open water and/or a few species of plants, or are dominated by Invasive Species. Replacement or relocation of these Wetlands is more acceptable, if they must be taken for Development. In many cases, these Wetlands can be effectively repaired and used for storm water retention and filtration.

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<sup>267</sup> This sentence is being reviewed for accuracy.

<sup>268</sup> From Chapter 60, 5:203

#### D. Protection Measures

1. A Natural Feature buffer area within a line measured 25 feet horizontally from the boundary or edge of a Wetland identified as provided above shall be required unless, and of the extent, it is determined to be in the public interest not to maintain such area under the standards provided in Section 5.29.4.
2. Prohibited and permitted activities for the Natural Feature buffer area shall be the same as the prohibited and permitted activities regulated or allowed in or on the Wetland, unless prohibited activity is determined to be in the public interest and authorization has been granted by the Planning Commission under the standards provided in Section 5.29.4. <sup>269</sup>
3. Where Wetlands are to be used as a part of a storm water retention system, the Rules of the Washtenaw County Water Resources Commissioner should<sup>270</sup> be followed to minimize negative impacts on the Wetland.

#### E. Protection of Wetlands during and after construction<sup>271</sup>

An Applicant who has received a Wetland Use Permit under this chapter shall comply with the requirements of this section in connection with any construction or other activity on the property for which the use permit has been issued. Conditions may be established by the ~~city~~ City to ensure that the intent of this chapter is carried out. The activity or use shall be conducted in such manner as to cause the least amount of disruption of the protected Wetland, including, but not limited to, the following requirements:

1. Prior to any Development, Clearing, filling, or other activity for which a Wetland Use Permit is required, protective construction fencing intended to restrict access shall be erected between the protected area and the area subject to Development. Such protection shall remain until it is authorized to be removed by the City, or until issuance of a final certificate of occupancy. Nails, wires, or other objects may not be attached to any tree, nor otherwise cause damage to any tree.
2. All protected Wetland and Watercourse areas within or adjacent to the Wetland Use Permit activity area shall be protected with barrier fencing at least four feet in height, staked in place at ten-foot (minimum) intervals. No filling, excavating, or storage of materials, Debris, or equipment shall take place within the barrier fencing.
3. Where vehicle and Driveway access is permitted, any existing hydrological connection shall not be disrupted.
4. When the use of Fill is permitted, it shall be clean and free of garbage, refuse, toxic or contaminated material, or any material that through the action of leaching may cause degradation of surface or ground water quality.
5. Soil Erosion control structures and measures shall be maintained, including, but not limited to, silt fences, straw bale berms, and Sediment traps. The

<sup>269</sup> Combination up of 5:51(1), (2), (4), and (6) tailored to Wetlands.

<sup>270</sup> This may be changed to "shall" if determined that the Rules are mandatory.

<sup>271</sup> From Chapter 60, 5:215

owner shall provide for periodic inspections and maintenance of such installations throughout the duration of the project.

6. A copy of the City Wetland Use Permit and state permits, if applicable, shall be prominently displayed or available at the Site. They shall be displayed continuously when authorized activities are conducted and for ten days following completion. The owner shall allow ~~city~~City representatives to enter and inspect the Premises at any reasonable time, and failure to allow inspections shall constitute a violation of this section.

#### F. Mitigation<sup>272</sup>

1. As authorized by ~~section~~Section 5:211(4)(b) of this chapter, the City may impose conditions on a Wetland Use Permit for a use or development if the conditions are designed to remove an impairment to the Wetland benefits, to mitigate the impact of a discharge of Fill material, or otherwise improve the water quality.
2. The City shall consider a mitigation plan if submitted by the Applicant and may incorporate the mitigation actions as permit conditions for the improvement of the existing Wetland resources or the creation of a new Wetland resource to offset Wetland resource losses resulting from the proposed project. Financial assurances may be required to ensure that mitigation is accomplished as specified by the permit conditions. The City shall, when requested by the Applicant, meet with the ~~applicant~~Applicant to review the Applicant's mitigation plan.
3. In developing conditions to mitigate impacts, the City shall consider mitigation to apply only to unavoidable impacts that are otherwise permissible, utilizing the criteria under Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Mitigation shall not be considered when it is feasible and prudent to avoid impacts or when the impacts would be otherwise prohibited under this chapter.
4. When considering mitigation proposals, the City shall make all of the following determinations:
  - a. That all feasible and prudent efforts have been made to avoid the loss of Wetland resource values.
  - b. That all practical means have been considered to minimize impacts.
  - c. That it is practical to replace the Wetland resource values which will be unavoidably impacted.
5. If the City determines that it is practical to replace the Wetland resource values which will be unavoidably impacted, the City shall consider all of the following criteria when reviewing an Applicant's mitigation proposal:
  - a. Mitigation shall be provided on-site where practical and beneficial to the Wetland resources.

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<sup>272</sup> From Chapter 60, 5:213



- b. When subdivision (a) of this subsection does not apply, mitigation shall be provided in the immediate vicinity of the permitted activity where practical to the Wetland resources, provided that mitigation shall be within the same sub-watershed of the Huron River within which the proposed Wetland use is located (i.e., the Allen Creek, Fleming Creek, Honey Creek, Malletts Creek, Miller Creek, Swift Run Drain or Traver Creek sub-watersheds). If the proposed Wetland use is not within one of the foregoing sub-watersheds, then mitigation may be within the Huron River direct discharge area, provided that mitigation in the Huron River direct discharge area shall be within the ~~city~~ City limits or within one mile upstream of the ~~city~~ City limits. Mitigation upstream of the proposed Wetland use is preferred.
  - c. Only when it has been determined by the Public Services Area Administrator that subdivisions (a) and (b) of this subsection are inappropriate and impractical shall mitigation be considered elsewhere.
  - d. Any proposal shall assure that, upon completion, there will be no net loss to the Wetland resources. Any mitigation plan approved under this chapter shall provide replacement of Wetlands disturbed at a ratio of no less than 1.5:1 and no more than 2:1, in accordance with federal rules and state operating procedures. Should such rules and procedures change, the most current ratio shall be used.
  - e. The proposal shall give consideration to replacement of the predominant functional values lost within the impacted Wetland.
6. Any mitigation activity shall be completed before initiation of other permitted activities, unless a phased concurrent schedule is agreed upon between the City and the Applicant.
  7. Monitoring to establish documentation of the functional performance of the mitigation may be required as a permit condition, as well as necessary corrective actions required, to deliver the Wetland resource values identified.
  - ~~7.8.~~ Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be such that it will approximate the density and coverage before disturbance within three years of planting.

## 5.24 Signs<sup>273</sup>

<sup>273</sup> Requirements that electric Signs be installed consistent with Electric Code have been deleted from this section because they are now addressed in the Sign Permit section. In addition, the requirement that Sign installers be licensed is a state requirement and has been deleted from the code to avoid future conflicts. This section of the UDC is under continuing review to ensure that numerous recent amendments by City Council have been accurately reconciled.



Throughout this Section 5.24, all references to the City's sign regulation or to this Section 5.24 refer to and apply to both the substantive standards in this Section 5.24 and the procedural standards related to the administration and enforcement of sign regulations in Article V: Administrative Bodies and Procedures.<sup>274</sup>

#### **5.24.1 Intent<sup>275</sup>**

The intent of Section 5.24 is to regulate Signs within all zoning districts of the City to protect public safety, health, and welfare; minimize abundance and size of Signs to reduce visual clutter and motorist distraction; promote public convenience; preserve property values; and enhance the aesthetic appearance and quality of life within the City. The regulations and standards in this Section 5.24 are considered the minimum amount of regulation necessary to achieve a substantial governmental interest for public safety, traffic safety, aesthetics, and protection of property values, and are intended to be content neutral. Those objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, Illumination, and other aspects of Signs in the City so as to:

- A.** Protect the public right to receive messages, especially noncommercial messages, such as religious, political, economic, social, philosophical, and other types of information protected by the First Amendment of the U.S. Constitution. Nothing in this section is intended to limit the expression of free speech protected by the First Amendment.
- B.** Recognize that the principal intent of commercial Signs, to meet the purpose of these standards and serve the public interest, should be for identification of an Business on the same Premises as the Sign.
- C.** Recognize that the proliferation of Signs is unduly distracting to motorists and nonmotorized travelers, reduces the effectiveness of Signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.
- D.** Recognize that different areas of the City require different Sign regulations due to factors such as their intended audience and their ability to help promote the character of an area.
- E.** Prevent Signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
- F.** Enable the public to locate goods, services, Buildings, and/or locations on which activities occur without excessive difficulty and confusion by restricting the number and placement of Signs.<sup>276</sup>
- G.** Prevent placement of Signs that will conceal or obscure other Signs.
- H.** Prevent Off-Premises Signs from conflicting with land uses.

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<sup>274</sup> Intro is new

<sup>275</sup> Purpose section has been renamed Intent and the entire section has been rewritten to provide a more thorough statement of the intent of City ordinance regarding signs.

<sup>276</sup> Revised for clarity.

- I. Preserve and improve the appearance of the City and road corridors through the City by encouraging Signs of consistent type and size that are compatible with and complementary with related Buildings and uses, and harmonious with their surroundings.
- J. Prohibit portable commercial Signs in recognition of their significant negative impact on traffic safety and aesthetics.

### 5.24.2 Applicability

Signs may be erected or maintained in the City only as permitted by 5.24 and subject to other restrictions contained in this Code. The Sign regulations of this Section 5.24 are intended to ensure that Signs are located, designed, sized, constructed, installed, and maintained in a way that protects and promotes safety, health, aesthetics, and the public welfare while allowing adequate communication. If any portion of the Sign regulations of this Section 5.24 is determined to be a violation of law, that portion shall be severed from the remainder of the chapter and shall be revised to reflect the least possible change that avoids the violation of law; and the remainder of this Section 5.24 chapter shall remain in effect and be interpreted as closely as possible to the original intent of this Section 5.24 without violating state or federal law. It is the specific intent of the City that if any portion of the Sign regulations of this Section 5.24 is determined to be an impermissible content-based regulation, such a determination shall not result in the invalidation of any other portion of this Section 5.24. Regardless of any other provision in this Section 5.24, noncommercial messages may be placed or substituted on any lawfully permitted Sign.<sup>277</sup>

### 5.24.3 Measurement of Sign Height and Distance<sup>278</sup>

#### A. Maximum Height

The maximum height of a Sign shall be measured from the lowest point of Grade beneath the Sign to the highest edge of the Sign.

#### B. Minimum Height

The minimum height of a Sign shall be measured from the highest point of Grade beneath the Sign to the lowest edge of the Sign.<sup>279</sup>

#### C. Distance from a Building to a Sign<sup>280</sup>

The distance from a Building to a Sign shall be measured from the nearest wall of the Building, or, in the case of a Fueling Station the nearest gasoline pump, to the farthest part of the Sign.

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<sup>277</sup> Text aligns with ORD-13-04

<sup>278</sup> Text for this section moved from definitions for maximum and minimum Sign height.

<sup>279</sup> Clarification consistent with application of this section of the code.

<sup>280</sup> This provision may be deleted if it is determined to be unnecessary in light of recent sign regulation amendments.

#### 5.24.4 On-Premises Exterior Signs<sup>281</sup>

##### A. Area and Placement

Each ground-level Business is permitted On-Premises Exterior Signs having an area totaling two square feet for each linear foot of Business Frontage. The total Sign Area of such Signs may not exceed 200 square feet. Such Signs may contain a total of ten Message Units and shall meet the following placement standards:

##### 1. Attached to Building

Signs attached to a Building shall not extend more than three feet above the Building or four feet from the wall of the Building. The extension from the wall or Roof shall be measured from the location of attachment.

##### 2. Ground Signs

Signs not attached to a Building shall be at least five feet from all Lot Lines. Such Signs shall be permitted a maximum height of one foot for each two feet the Sign is set back from the nearest Lot Line, provided that the maximum height of any such Sign shall not exceed 25 feet.

##### 3. Marquee/Awning Signs

Signs may be located on a Building marquee or Awning that is over a public ~~sidewalk~~ Sidewalk provided that the marquee or Awning shall not extend more than eight feet over the Public Right-of-Way nor be closer than three feet to the curb line.

##### 4. Minimum Height Above Public Right-of-Way

No portion of any Sign that extends over the Public Right-of-Way shall be less than eight feet above the Public Right-of-Way.

##### B. Area and Message Unit Exceptions

The following Signs shall be exempt from the Message Unit and area limitations contained in Section 5.24.4A, but shall be subject to the placement regulations of this:

##### 1. Gasoline Price Signs

A Fueling Station shall be permitted Signs on each pump island indicating the prices and types of fuel and the type of service. The Sign Area of such Signs shall not exceed 20 square feet per pump island.

##### 2. Theater Signs

Theaters shall be permitted 200 square feet of additional Changeable Copy Sign Area that indicates the entertainment at the theater.

<sup>281</sup> Revised per ORD-13-04 and for consistency of terminology. Title revised from Exterior Business Signs. Maximum Sign Area reduced from 200 sq. ft.

### 3. Business Center<sup>282</sup>

A Business Center may have a Sign identifying, by name only, the Business Center and the Businesses contained therein. Such a Sign may have a Sign Area of two square feet for each linear foot of Building Frontage, but not more than 200 square feet of total Sign Area. The Changeable Copy portion of such a Sign shall not exceed 50% of the Sign Area and shall not exceed 30 square feet per Sign and 15 square feet per Sign face. No such Sign may be erected until after the Planning Manager<sup>283</sup> has reviewed the permit application to determine whether it meets the standards of this Section 5.24.

### 4. Alley Signs

A Business with an entrance on an ~~alley~~ Alley shall be permitted additional Sign Area of one square foot for each linear foot of ~~alley~~ Alley frontage and ten additional Message Units solely for Signs facing said ~~alley~~ Alley.

## C. Message Unit Exceptions

The Message Unit restrictions of Section 5.24.4.B have the following exceptions, provided that the area and placement provisions of that section are met.

### 1. Business without Ground Level Frontage

A Business without ground-level Business Frontage shall be permitted Signs having ten Message Units to advertise that Business, provided that the total Sign Area of all Exterior Signs on any Building shall not exceed the total Sign Area permitted for Businesses in the Building having ground-level Business Frontage.

### 2. Business with Frontage on More Than One Street

A Business with Business Frontage on more than one street may be permitted ten additional Message Units on each additional street side.

### 3. Business Name

If the name of the proprietor of a Business exceeds ten Message Units, said name may be displayed on each Business Frontage provided no other Message Units are displayed by that Business on said frontage.

## 5.24.5 Interior Business Signs

### A. Permanent

A Business shall be permitted Interior Signs that occupy not more than 25% of the window area of each ground level of that Business, provided that the Message Units on those Signs when combined with those on any Exterior Signs do not exceed the number permitted by Section 5.24.3C. If the permanent Interior Signs will exceed 25% of the window area of a ground level of a Business, they shall be treated as Exterior Signs and shall be permitted only if they meet all the requirements of Section ~~5.24.3C~~ 5.25.4.C

<sup>282</sup> Revised to incorporate edits from ORD-13-04.

<sup>283</sup> Revised from City Attorney to PDSU Manager to reflect correct administrative process. The City attorney shall continue to advise the PDSU Manager regarding these decisions, as necessary.

**B. Temporary**

A Business shall be permitted temporary Interior Signs that occupy not more than 25% of the window area of said Business. No such Sign shall be displayed for more than 30 business days in any 60 day period.

**5.24.6 Residence Signs****A. Single-Family Dwellings, Two-Family Dwellings, and Townhouses**

Single-Family, Two-Family, and Townhouse Dwellings are permitted Signs having a total Sign Area of three square feet indicating the address and names of the occupants.

**B. Multi-Family Dwellings**

Multi-Family Dwellings, Fraternity Houses, Sorority Houses, Student Cooperative Housing, Group Housing, Assisted Living Dwellings, Accessory Bed and Breakfasts and Religious Assemblies are permitted Signs having a total Sign Area of 12 square feet indicating only the address, the names of the occupants and the name, phone number and website of the Building or organization.

**C. Residential Developments**

A residential development of more than one Single, Two-Family, Multi-Family, or Townhouse Dwelling is permitted one Sign identifying the development at any entrance to the Development, with a maximum of two such Signs for each development. Such Signs shall have a maximum Sign Area of 50 square feet and a maximum height of eight feet.

**5.24.7 Real Estate Signs**

On-Premises Temporary Signs advertising real estate may be erected in accordance with the following regulations:

**A. Single-Family and Two-Family Real Estate -- For Sale, For Rent and Contractor Signs<sup>284</sup>**

A single Sign advertising the sale or rent of a Single-Family or Two-Family Dwelling or vacant property zoned for Single-Family or Two-Family Dwellings, or identifying the Contractors engaged in work that requires a building permit from the City, is permitted, subject to the following standards:

**1. Size**

Such Signs shall have a maximum height of 48 inches and a maximum width of 36 inches, including the support Structure and all riders, and with the bottom of the Sign face a minimum of six inches from the ground.

**2. Placement**

Such Signs shall be set back at least five<sup>285</sup> feet from any Public Right-of-Way or affixed to a Building. If a legally existing obstruction on the property prevents

<sup>284</sup> Sections for Single and Two-Family Real Estate for sale, rental and contractor Signs have been combined for clarity and consistency. Staff is considering whether this simpler regulation is adequate, or if Table 5:505 (Minimum Distances from Street and Sidewalk for Placement of Temporary Signs) needs to be carried forward.

<sup>285</sup> Revised from 15 feet.

such Signs from being seen from a Public Right-of-Way, then the Sign may be affixed to or placed immediately in front of that obstruction, as long as the display face of the Sign is parallel to the Right-of-Way line and the Sign is not placed within the Public Right-of-Way.

### **3. Installation and Removal**

Such Signs may not be installed until the dwelling or vacant property is listed for sale or rent, or the contractor has been issued a permit for the work to be done, and such Sign must be removed within 48 hours after the dwelling or vacant property is no longer available for sale or rent or the contractor's work has been completed.

## **B. Other Real Estate -- For Sale and For Rent Signs**

A Sign with a maximum Sign Area not in excess of 12 square feet advertising the sale or rental of real estate other than Single or Two-Family Dwellings or vacant property is permitted pursuant to a permit having a maximum duration of 120 days. Such Signs shall have a maximum height of ten feet and shall be set back 25 feet from any Public Right-of-Way unless attached to a permanent Building.

## **C. Other Real Estate -- Contractor Signs**

A Sign identifying the contractors performing work on a Premises not containing or zoned for a Single or Two-Family Dwelling is permitted, subject to the following standards:

1. There shall be a maximum of one Sign per each Street Frontage that has a vehicular entrance.
2. The Sign shall have a maximum Sign Area of 50 square feet.
3. The Sign shall have a maximum height of ten feet.
4. The Sign shall be set back a minimum of five<sup>286</sup> feet from the Public Right-of-Way, or affixed to a permanent Building, construction fence, or barricade.
5. Only a contractor who is engaged in work that requires a building permit from the City may erect the Sign.
6. The Sign shall not be installed until the building permit has been issued for the work.
7. The Sign shall be removed at the completion of the work.

## **5.24.8 Political Signs**

### **A. General**

A Political Sign is permitted subject to the following conditions:

1. The Sign shall have a maximum height of 48 inches and a maximum width of 36 inches, including the support Structure and all riders, and shall have the bottom of the Sign a minimum of six inches from the ground.

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<sup>286</sup> Revised from 25.



2. The Sign shall be set back at least five<sup>287</sup> feet from the Public Right-of-Way or affixed to a Building. If a legally existing obstruction on the property prevents the Sign from being seen from the Public Right-of-Way when the Sign is placed in accordance with the foregoing placement requirements, then the Sign may be affixed to or placed immediately in front of that obstruction, as long as the display face of the Sign is parallel to the Right-of-Way line, and the Sign is not placed within the Public Right-of-Way. Permission to locate such Signs on private property shall be obtained from the owner or occupant of the property on which such Signs are located.
3. A Sign that advocates or opposes a candidate for public office or a position on an issue to be determined at an election shall be removed not more than 18 hours after the election.
4. Other Political Signs shall not be subject to any specified time limit but must be removed if they become dangerous or otherwise are prohibited by Section 5.24.10.

### **B. On Election Days**

The following provisions apply on election days only, to Signs that directly or indirectly make reference to an election, a candidate, or a ballot question and that are erected on property on which a public polling place is located. Such Signs are not subject to the placement requirements of 5.24.8A, but no such Sign:

1. Shall be erected within 100 feet of any entrance to a Building in which a polling place is located.
2. Shall be erected in the Public Right-of-Way, except that a Sign that complies with all other provisions of this Section 5.24.8B may be erected in the Lawn Extension that is contiguous with and on the same side of the street as the property on which the polling place is located. Permission from the owner of the property on which the polling place is located shall not be required to erect such a Sign in the Lawn Extension.<sup>288</sup>
3. Shall be erected such that it hinders or obstructs the free and safe passage of pedestrians and vehicles in the Public Right-of-Way.
4. Shall be erected more than 18 hours before the polls open.
5. Shall remain on the property on which the polling place is located or in the Public Right-of-Way more than 18 hours after the polls close.

### **5.24.9 Other Signs Exempt from Sign Permit Requirements<sup>289</sup>**

The following Signs are permitted in addition to the other Signs permitted by this chapter and do not require a Sign permit:

- A. Address numbers with a numeral height not greater than 12 inches for residences and 24 inches for Businesses.

<sup>287</sup> Revised from 15 feet.

<sup>288</sup> Revised for clarity.

<sup>289</sup> Revised per ORD-13-04, and to clarify that these are in addition to other signs permitted. Some text deleted as redundant.



- B.** Names of Building occupants painted on or attached to the Building with a letter height not greater than two inches.
- C.** Exterior Signs having a total Sign Area of not more than three square feet on goods displayed within six feet of the front of the Building.
- D.** Portable real estate "open house" Signs with a Sign Area not greater than six square feet. One such Sign may be located on the Premises being sold. No more than two additional such Signs are permitted and may be placed in the Public Right-of-Way, notwithstanding the prohibition in Section 5.24.10L, but a property owner shall have the right to remove and destroy or otherwise dispose of without notice to any Person any Signs that are placed without his or her permission on his or her property, including Signs placed in that portion of the Public Right-of-Way that is an easement across the property. All of the Signs permitted by this Section 5.24.9D and pertaining to a single property may be displayed only for six hours during one day in any seven-day period. All such Signs shall be located so as not to interfere with the free passage of vehicular and pedestrian traffic upon the Public Right-of-Way, and so as not to constitute a Hazard.
- E.** Paper notice placed on bulletin boards or on kiosks that have an area of no more than ten square feet.
- F.** Authorized Signs of the state or a political subdivision of the state.
- G.** Signs of a Religious Assembly, school, Museum, recreational facility or Library indicating the name, current displays or activities and having a Sign Area not greater than 50 square feet.
- H.** Memorial Signs or tablets, names of Buildings and date of erection, when cut into any masonry surface of a Building or when constructed of bronze or other incombustible material affixed to a Building.
- I.** Flags bearing the official design of a nation, state, municipality, educational institution or noncommercial organization, provided that the flag pole is set back from all Lot Lines a minimum distance of one foot for every one foot of pole height.
- J.** Special event Signs, banners or search lights approved by the City Council or the City Administrator.
- K.** Permanent Signs on vending machines, gas pumps or ice containers indicating only the contents of such devices provided that such devices must be located within ten feet of the Building. The Sign Area of each such device may not exceed six square feet.
- L.** Signs not exceeding six square feet each of which contain only noncommercial messages including designation of restrooms, telephone location, restrictions on smoking, door openings and private traffic control and parking Signs.
- M.** One Sign per Parking Lot not exceeding three square feet per Sign face and six feet in height identifying the Business and providing driving and parking information.

- N. Interior Signs up to four square feet indicating property is for sale or for rent.
- O. Plaques or Signs not exceeding two square feet designating a Building as historic.
- P. Business Signs not exceeding two square feet per Sign face containing information on credit cards and Business affiliations.<sup>290</sup>
- Q. Signs affixed to a freestanding station that provides rental or sharing of bicycles to the public when the station is part of a system that has received funds or equipment from the City, including such a station that has been authorized by the City to occupy a Public Right-of-Way. The maximum total Sign Area shall be 20 square feet, the maximum height of any Sign shall be eight feet, and no sign face shall exceed six square feet. Up to seven square feet of Off-Premises Signs shall be permitted and the provisions of Section 5.24.11 shall not apply.<sup>291</sup>

#### 5.24.10 Prohibited Signs<sup>292</sup>

Any Sign that is not specifically permitted by this Section 5.24 is prohibited. The following Signs are prohibited:

- A. Signs that incorporate in any manner or are Illuminated by any flashing, intermittent, or moving lights. This Section 5.24.10 does not include barber poles that meet the other requirements of this ~~Section~~section.
- B. Exterior banners, pennants, spinners and streamers, other than a banner or pennant used as a permitted Sign under Section 5.24.4 or a special event banner under 5:24.9.J.<sup>293</sup>
- C. Exterior string lights used in connection with commercial Premises, other than holiday decorations.
- D. Any Sign which has any visible motion other than permitted flags or banners.
- E. Any Sign which is structurally or electrically unsafe.
- F. Any Sign erected on a tree or utility pole except Signs of any political subdivision of this state.
- G. Any Business Sign or Sign Structure that no longer advertises a bona fide Business conducted or a product sold.
- H. Except as provided in Section 5.24.9D and Chapter 47, Section 4:14, any freestanding Exterior Sign not permanently anchored or secured to either a Building or the ground.
- I. Any Sign on a motor vehicle or trailer that is parked in front of a Business for the purpose of advertising a Business or product or service of a Business located on the Premises where such vehicle is parked.

<sup>290</sup> Deleted as redundant

<sup>291</sup> Text added per ORD-15-05.

<sup>292</sup> Text revised per ORD-15-05.

<sup>293</sup> Revisions for clarity and reflecting current practice.

- J.** Any Sign on a motor vehicle or trailer that projects more than 6 inches from the surface of that vehicle when it is parked at a location visible from a Public Right-of-Way street.
- K.** Any Sign Structure or frame no longer containing a Sign.
- L.** Any Sign erected on the Public Right-of-Way, except for Signs of a political subdivision of this state, portable "open house" Signs as permitted by Section 5.24.9D, Political Signs as permitted by Section 5.24.8B. The City may remove and destroy or otherwise dispose of, without notice to any Person, any Sign that is erected on the Public Right-of-Way in violation of this chapter.
- M.** Billboards.

#### **5.24.11 Off-Premises Signs<sup>294</sup>**

Off-Premises Signs are permitted only in accordance with the following regulations and any other applicable provision of this Code:

- A.** An Off-Premises Sign shall have a maximum Sign Area of 200 square feet. For each Premises, the maximum permitted Sign Area for On-Premises Signs for all Businesses on the Premises shall be reduced one square foot for each square foot of Off-Premises Sign Area on the Premises.
- B.** An Off-Premises Sign shall have a maximum height of 25 feet.
- C.** An Off-Premises Sign shall be at least 300 feet from any other Off-Premises Sign.
- D.** An Off-Premises Sign shall have a maximum height of one foot for each two feet it is set back from the nearest Public Right-of-Way line and shall be at least 50 feet from any On-Premises Sign and at least 500 feet from any Lot Line of any playground, school, residential dwelling, Religious Assembly, or park.

#### **5.24.12 Illumination<sup>295</sup>**

- A.** Only Signs permitted by Sections 5.24.3C, 5.24.5, 5.24.6, 5.24.11, and subsections A, B, G, K, and L of Section 5.24.9 may be illuminated.
- B.** All electric Signs and outline lighting shall be installed in accordance with the Electrical Code adopted by the City as referenced in Chapter 100 of this Code. Every electric Sign of any type, fixed or portable, shall be listed and installed in conformance with that listing, unless otherwise permitted by special permission.
- C.** In order to prevent glare, Illuminated Signs shall not emit more than 5,000 Nits in full daylight and 100 Nits between dusk and dawn. All electronic Illuminated Signs shall have functioning ambient light monitors and automatic dimming equipment which shall at all times be set to automatically reduce the brightness level of the Sign proportionally to any reduction in the ambient light. In order to verify compliance with City Code or other applicable law, the interface that programs an electronic Illuminated Sign shall be made available to City staff for

<sup>294</sup> Revised per ORD-13-05 and for consistency of terminology.

<sup>295</sup> Content revised from ORD-13-05.

inspection upon request. If the interface is not or cannot be made available upon the City's request, the Sign shall cease operation until the City has been provided proof of compliance with City Code.

- D.** Regardless of any other requirement, Illuminated Signs shall not project light that exceeds 0.10 of a foot candle above the ambient light at any Lot Line bordering any R1, R2, R3, R4 or R6 zoning district.

#### **5.24.13 Changeable Copy Signs<sup>296</sup>**

- A.** The Changeable Copy portion of a Sign shall not exceed 50% of the Sign Area of the Sign and shall not exceed 30 square feet per Sign and 15 square feet per Sign face.
- B.** Scrolling or traveling of a message on Changeable Copy is prohibited.
- C.** Changeable Copy shall not change more than once every 15 minutes.
- D.** Changeable Copy shall not appear to flash, undulate, pulse, blink, expand, contract, bounce, rotate, spin, twirl, or otherwise move.

#### **5.24.14 Substitution<sup>297</sup>**

Noncommercial content may be substituted for other content on any Sign permitted by this UDC.

#### **5.24.15 Liability Insurance<sup>298</sup>**

If any wall, projecting, pole or Roof Sign is suspended over a public street or property or if the vertical distance of such Sign above the street is greater than the horizontal distance from the Sign to the street property line or parapet wall and so located as to be able to fall or be pushed onto public property, then the owner of such Sign shall keep in force a public liability insurance policy in the amount of \$50,000.00 for injury to one ~~person~~Person, \$100,000.00 for injury to more than one ~~person~~Person and \$25,000.00 for damage to property. In lieu of an insurance policy, an owner may present proof satisfactory to the City Attorney that the owner is financially capable of self-insurance in the above amounts. Any Sign subject to the provisions of this Section 5.24.15 may be routinely inspected once every calendar year.

## **5.25 Outdoor Lighting**

### **5.25.1 Applicability<sup>299</sup>**

Unless exempted by the terms of this Section 5:25, all outdoor lighting installed or modified in the following situations shall comply with the following standards:

<sup>296</sup> Added from ORD-13-04.

<sup>297</sup> New provision required by recent court decisions.

<sup>298</sup> From current 5:512 and 5:515. Provisions for specific inspection fee amounts were not carried forward, as all fee amounts are now included in a City Council resolution establishing fees.

<sup>299</sup> Applicability limits from current code sec. 5:600(2).

- A. Whenever a site plan is required;
- B. Whenever the estimated expenses of construction exceeds 50% of the appraised replacement cost of the entire Building or structure, exclusive of foundation, prior to its improvement (as determined by the Building Official).
- C. Whenever a shared Driveway is provided within an easement.

**5.25.2 All Exterior Lighting**

All exterior lighting devices shall be adequately shielded and screened so that no light will glare directly onto any Public Right-of-Way or property principally used for residential purposes. Lighting devices shall be arranged and kept at a level so that the amount of light projected onto property principally used for residential purposes does not exceed 0.10 of a foot candle.<sup>300</sup>

**5.25.3 Parking Lots<sup>301</sup>**

**A. General**

Outdoor lighting for Parking Lots shall comply with the following standards:

1. Shall be Illuminated from one-half hour after sunset to one-half hour before sunrise at the levels specified in Table 5:25-1 below.
2. Shall be designed to provide Illumination levels at all unobstructed points of the Parking Lots in accordance with Table 5:25-1. Illumination levels shall be measured three feet above the Lot surface.
3. Shall be designed and maintained so the Illumination is evenly distributed.
4. Shall be designed and maintained so that it does not adversely affect the vision of motorists on public streets.<sup>302</sup>

**B. Illumination Levels**

Lighting Illumination levels in Parking Lots shall comply with Table 5:25-1.

TABLE 5:25-1: ILLUMINATION LEVELS		
USE	MINIMUM ILLUMINATION LEVEL (FOOTCANDLES)	MAXIMUM UNIFORMITY RATIO
<b>Residential, Religious Assembly, School, Private swimming club, and child care facility</b>		
All Parking Lots	0.4	10:1
<b>Other Nonresidential</b>		
Small (5--10 spaces)	0.4	10:1
Medium (11--99 spaces)	0.6	10:1
Large (100 or more spaces)	0.9	10:1
Bicycle Parking Spaces	0.4	10:1

<sup>300</sup> Text is from current code sec. 5:605. Revised to clarify applicability to all outdoor lighting, which is current practice.

<sup>301</sup> Text from Ch. 59, Sec. 5:168(8) and (9) and 5:167.1(3). Included bicycle parking areas and deleted separate paragraph with same standards below.

<sup>302</sup> Integrates text from current code Secs. 5:168(8), 5:168(9) and 5:168.1(3) and removes duplication with 5.24.2 above.

### C. Exceptions to Illumination Levels

1. Nonresidential lighting levels may be reduced to 0.4 footcandle with a maximum uniformity ratio of not more than 10:1 after 2:00 a.m., or after established hours of operation as filed with the PDSU. Established hours of operation are one-half hour before to one-half hour after published Business hours.
2. Religious Assembly, school, private swimming club, and child care facility Parking Lots in residential neighborhoods may reduce lighting levels by up to 50% after midnight with the maximum uniformity ratio not to exceed 50:1. Lighting plans and specifications for such Illumination must be submitted pursuant to this Section 5.24.13 during the site plan approval process.

## 5.26 Fences<sup>303</sup>

### 5.26.1 Applicability

- A. All permanent Fences shall be subject to the requirement of this Section 5.26 .
- B. Temporary construction fences and fences required for protection around Excavations shall comply with Article 13 of the City Construction Code. Such fences shall not be maintained for a period greater than a year without special approval of the Zoning Board of Appeals.

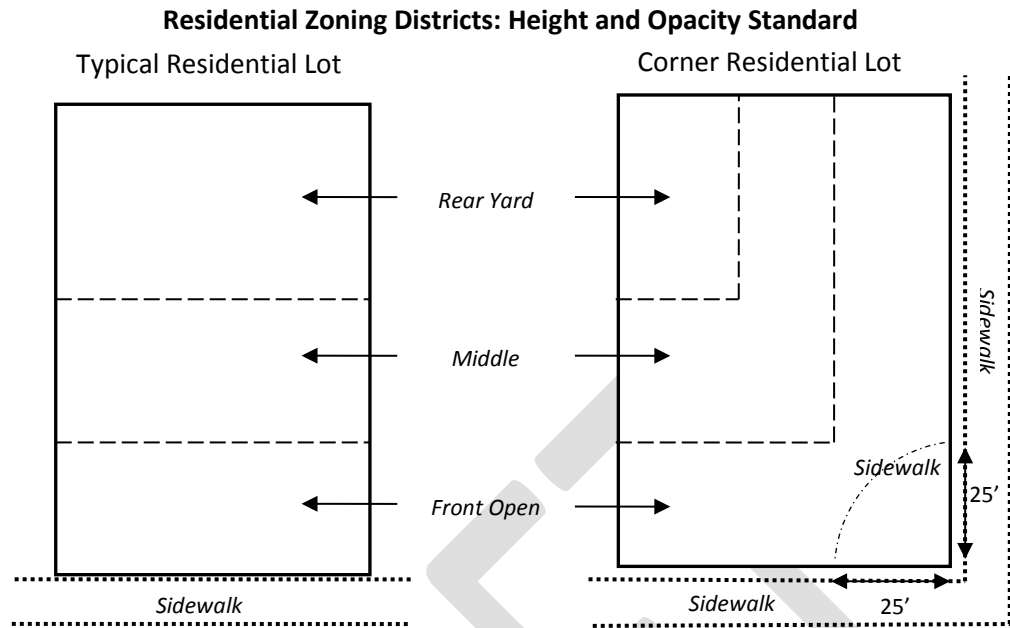
### 5.26.2 Standards

#### A. Residential Zoning Districts.

Fences located in residential zoning districts (See also figure below):

1. Shall not exceed four feet in height and 50% Opacity in the ~~required~~ Front Yard.
2. Shall not exceed six feet in height and 80% Opacity in ~~any part which is in~~ the Side Yard.
3. Shall not exceed eight feet in height in the Rear Yard.

<sup>303</sup> Text from current code Chapter 104, with Significant reorganization.



**B. Nonresidential Zoning Districts.**

Fences located in nonresidential zoning districts:

- 4.1.** Shall not exceed 12 feet in the Front Setback Area, or exceed the maximum height limit for the zoning district in which the Fence is located outside of the Front Setback Area.
- 5.2.** Shall have no restriction as to solid matter or closed construction.<sup>304</sup>
- 6.3.** Shall not be charged or connected to an electrical current.
- 7.4.** Shall not contain spikes, nails, barbs (including barb wire), or other pointed instruments, or any cleaved selvages or any sharp points on wire Fences that have not been removed or bent to eliminate any sharp extrusions.<sup>305</sup>

**B.C.** All Fences located within 25 feet of the intersection of two or more street Lot Lines where the minimum ~~required front setback~~ **Required Front Setback** of the zoning district in which the Lot is located is greater than none shall not be higher than 30 inches above the sidewalk Grade.

**C.D.** In determining the maximum height of a Fence that separates two adjoining Lots and runs within two feet of the Lot Line, the maximum height at any point shall be determined from the highest Grade within two feet on either side of the Lot Line.

<sup>304</sup> Revised to clarify that this applies to Fences in Front Yard ~~Open Space~~.

<sup>305</sup> Revised to group prohibitions together and clarify that they all apply outside residential zones.



**5.26.3 Maintenance<sup>306</sup>**

Fences shall be maintained so as not to endanger life or property. Any Fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance.

DRAFT

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<sup>306</sup> Text from Sec. 8:435 *Fences*.

# Article V: Administrative Bodies and Procedures

## 5.27 Administrative Bodies and Officers

This section identifies and generally describes the responsibilities of various review and decision-making bodies in the City. If these descriptions differ from more specific lists of responsibilities in other portions of the City Code, the latter shall govern.

### 5.27.1 Summary Procedures Table

In Table 5:27-1, the initial “R” indicates that the body has authority to make a recommendation to another body regarding the application, but does not have the power to make a decision on the application. The initial “D” indicates that the body has authority to make a decision regarding the application. The initial “A” indicates that the body is authorized to hear appeals of that type of decision. The column for “Courts” is not intended to create additional rights to appeal not recognized by the Courts of Michigan, or to indicate that the City recognizes a particular right of appeal, but to indicate that there is no body within the City authorized to hear an appeal of that type of decision and that any effort to find relief from the City’s decision will need to be sought outside the City government.<sup>307</sup>

**TABLE 5:27-1: PROCEDURES SUMMARY TABLE**

Legend R = Recommendation D = Decision A = Appeal M= Mailed Notice S = Sign Notice N = No Y = Yes	Section	Public Notice Required ?	Citizen Participation		Review, Decision, and Appeal Authority				
			Notification Required?	Meeting Required?	Planning & Development Services	Zoning Board of Appeals	Planning Commission	City Council	Courts
Type of Application									
Zoning Permit	5.29.1	N	N	N	D	A			
Sign Permit	5.29.2	N	N	N	D	A			
Grading Permit	5.29.3	N	N	N	D	A			
Wetlands Use Permit	5.29.4	N	N	N	R[1]		R	D	A
Special Exception	5.29.5	Y	Y	N	R		D		A
Site Plan for Administrative Approval	5.29.6	Y	Y	N	D	A			
Site Plans for Planning Commission approval	5.29.6	Y	Y	Y/N	R		D		A
Site Plans for City Council approval	5.29.6	Y	Y	Y/N	R		R	D	A
Area Plans	5.29.7	Y	Y	N	R		R	D	A
Subdivision	5.29.8	Y	Y	Y/N	R		R	D	A

<sup>307</sup> This introductory language and table are new, and illustrate current roles and responsibilities with respect to the Code sections included in this UDC.

**TABLE 5:27-1: PROCEDURES SUMMARY TABLE**

Legend R = Recommendation D = Decision A = Appeal M= Mailed Notice S = Sign Notice N = No Y = Yes	Section	Public Notice Required ?	Citizen Participation		Review, Decision, and Appeal Authority				
			Notification Required?	Meeting Required?	Planning & Development Services	Zoning Board of Appeals	Planning Commission	City Council	Courts
Type of Application									
Land Division	5.29.8	<del>NY</del>	N	N	D		A		
Rezoning	5.29.9	Y	Y	Y	R		R	D	A
Rezoning to PUD	5.29.10	Y	Y	Y	R		R	D	A
Appeals to ZBA	5.29.11	Y	N	N		D			
Subdivision Appeals	5.29.11	Y	N	N			D		
Variance	5.29.12	Y	N	N	R	D			A
NOTES: [1] Review of Wetlands Permits is by Systems Planning Unit rather than PDSU									

### 5.27.2 City Council

The City Council is the legislative body for the City and has final authority for adoption of and amendments to this Chapter and the related zoning map, and for all other matters for which a role for City Council is indicated in Table 5:27-1 Procedures Summary Table.

### 5.27.3 Planning Commission

#### A. Powers<sup>308</sup>

The Planning Commission shall have all powers granted by state law and City Code including but not limited to the following specific powers:

1. Those powers specifically authorized in Chapter 8 of Ann Arbor City Code.
2. To make recommendations to City Council regarding the establishment of zoning districts, including the boundaries of those districts.
3. To make recommendations to City Council regarding the text of this chapter, along with the incorporated maps to be adopted for each district or the City as a whole.
4. To make recommendations to City Council regarding the manner of administering and enforcing this chapter.
5. To make recommendations to City Council regarding the approval of site plans, and to approve certain site plans as specified by this chapter.

<sup>308</sup> Text significantly revised to match state law powers. Text from Sec. 5:137 (Subdivisions) has been deleted as it is no longer necessary after integration of Land Development Regulations.

**5.27.4 Zoning Board of Appeals<sup>309</sup>****A. Powers<sup>310</sup>**

The Zoning Board of Appeals (ZBA) shall have all powers granted by state law and City Code, including but not limited to the following specific powers:

1. Administrative review: To hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning map; to hear and decide matters specifically referred to the ZBA or upon which the ZBA is required to pass under this chapter; to hear and decide appeals from and review any Administrative order, requirement, decision, or determination made by an Administrative official or body charged with enforcement of a zoning ordinance in this chapter.<sup>311</sup>
2. Variances: To authorize variances pursuant to Section 5.29.12.
3. Nonconforming Uses: To approve the substitution of one Nonconforming Use for another, as provided in Section 5.32.15.32.1A, and to approve the continuation or replacement of a Nonconforming Structure as provided in Section 5.32.2.<sup>312</sup>

**B. Limitations on the Powers<sup>313</sup>**

1. The concurring vote of five members of the ZBA shall be necessary:
  - a. To reverse any order, requirement, decision or determination of any Administrative official or body.<sup>314</sup>
  - b. To decide in favor of the Applicant on any matter upon which the ZBA is required to pass under this chapter.
  - c. To grant a variance of this chapter.
2. Every decision of the ZBA shall be based upon finding of fact and every finding of fact shall be supported in the record of the proceedings of the ZBA.
3. The ZBA does not have the power to change the terms of this chapter, effect changes in the zoning map, add to the uses permitted in any zoning district, consider appeals of Special Exception Uses,<sup>315</sup> or grant use variances.<sup>316</sup>

<sup>309</sup> Text from Sec. 5:97. Provisions addressing conditions of approval, Security, and variance term have been relocated from previous draft.

<sup>310</sup> Text from Sec. 5:98. Text authorizing ZBA to interpret off-street parking regulations was deleted as inconsistent with general power of PDSU to interpret the Code.

<sup>311</sup> Requirement that appeals be filed within 60 days was moved to the Appeals section below. Text implements ORD-12-32 by transferring authority to hear appeals of decisions regarding signs from Board of Sign Appeals to Board of Zoning Appeals.

<sup>312</sup> Subsection 4, which allows the BZA to reduce certain Fence requirements upon appeal, has been deleted because this procedure is, in fact, handled as a variance.

<sup>313</sup> Text from Sec. 5:100.

<sup>314</sup> Expanded to cover reversal of decisions of bodies as well as individuals, to match current practice.

<sup>315</sup> Prohibition on hearing appeals of Special Exception Uses was added.

<sup>316</sup> Text from Sec. 5:100(3), reworded for clarity.

**C. Adoption of Rules of Procedure<sup>317</sup>**

1. Rules and regulations, prescribing Zoning Board of Appeals procedure for the performance of its authorized powers, shall be adopted by the Zoning Board of Appeals and made available to the public.
2. The procedures before the Zoning Board of Appeals shall be in accordance with the procedures established by Zoning Board of Appeals' rules and regulations, as specified in Section 1:198 of Chapter 8 of Title I of the Code, as well as with the provisions of this chapter and applicable state law.

**5.27.5 Design Review Board<sup>318</sup>****A. Membership**

The Design Review Board shall consist of seven members nominated by the mayor and approved by the City Council. In making appointments of members of the Design Review Board, the City Council shall appoint persons who, insofar as possible, have an interest in the design of the built environment and its relationship to the downtown and the broader community. To support a comprehensive design review, two members of the Design Review Board shall be landscape Architects, two shall be Architects, one shall be an urban planner, one shall be a developer, and one shall be a construction contractor.

**B. Term**

Members of the Design Review Board shall serve three-year terms. The terms of Office of the first Design Review Board members shall be fixed by the City Council so that the terms of three members will be for one year, two members will be for two years, and two will be for three years. After the initial board is formed, all members thereafter will be appointed for three year terms.

**C. Powers and Duties**

The Design Review Board shall have the following powers and duties:

1. To review the design of certain downtown projects listed in Section 5.28.5B.
2. To provide comments to property owners, developers and Architects on the proposed project design in relation to the Downtown Design Guidelines.
3. To report annually to City Council regarding the effectiveness of the design review process and make recommendations for any changes to the Downtown Design Guidelines.
4. To have all other powers and duties granted by the City Council by resolution.

<sup>317</sup> Text from Sec. 5:101.

<sup>318</sup> Section added per Ord. 11.07, then called Design Review Board for certain downtown properties.

### 5.27.6 Planning Manager<sup>319</sup>

#### A. General

The provisions of this chapter shall be administered by the Planning Manager. Whenever this chapter refers to the Planning Manager, the Planning Manager may delegate that duty to a designated person or entity unless otherwise prohibited by law.<sup>320</sup>

#### B. Duties and Limitations

1. The Planning Manager shall have the power to grant zoning permits and the Building Official shall have the power to issue certificates of occupancy. Each shall make inspections of Buildings or Premises necessary to carry out his/her duties in the enforcement of this chapter.
2. Every application for a zoning permit for excavation, construction, moving, Alteration, or change in type of use or type of occupancy shall be accompanied by a written statement and plans or plats, drawn to scale, showing the following in sufficient detail to enable the Planning Manager to ascertain whether the proposed work or use is in conformance with the provisions of this chapter:
  - a. The actual shape, location, and dimensions of the Lot; if the Lot is not a Lot of Record, sufficient survey data to locate the Lot on the ground.
  - b. The shape, size, and location of all Buildings, or other Structures, to be erected, altered or moved, and of any other Buildings, or other Structures, already on the Lot.
  - c. The existing and intended use of the Lot and of all Structures upon it.
  - d. Any other information concerning the Lot, adjoining Lots, or other matters as may be essential for determining whether the provisions of this chapter are being observed.
3. If the proposed excavation, construction, moving, Alteration, or use of land as set forth in the application are in conformity with the provisions of this chapter, the Planning Manager shall issue a zoning permit, however:<sup>321</sup>
  - a. The Planning Manager or the Building Official is not permitted to grant exceptions to the actual meaning of any clause, order, or regulations contained in this chapter to any Person making application to excavate, construct, move, alter, or use either Buildings, Structures or land.
  - b. The Planning Manager or the Building Official is not permitted to make changes in this chapter or to vary the terms of this chapter in carrying out his/her duties as Planning Manager or as Building Official.

<sup>319</sup> Text from Art. VIII, starting at Sec. 5:90. Provisions from 8:437 authorizing Fence regulations deleted because City does not have them.

<sup>320</sup> In the current code this text refers to Ch. 55. The second sentence is new in order to avoid having to repeat "or Designee" throughout the ~~Chapter~~chapter.

<sup>321</sup> Provision that issuance of a zoning permit does not waive UDC standards was moved to Zoning Permit section.

- c. The Planning Manager or the Building Official shall issue a permit when an Applicant's permit complies with the conditions of this chapter, regardless of the effect of such a permit on contracts, such as deed restrictions or private agreements.
- d. If any application for such permit is not approved, the Planning Manager or the Building Official shall state in writing the cause for such disapproval.
- ~~e.~~ The Planning Manager shall provide regular reports to the Planning Commission of site plans for administrative approval acted upon by the PDSU<sup>322</sup>.

## 5.28 General Procedures<sup>323</sup>

The following procedures apply as applicable to the specific procedures listed in Section 5.29 unless inconsistent with requirements applicable to a specific procedure in Section 5.29 or with requirements elsewhere in this chapter.<sup>324 325</sup>

### 5.28.1 Application Filing Requirements

- A. Application forms and submittal requirements for all types of applications, permits, and approvals referenced in this Article V can be obtained from the PDSU. The required materials shall include but not be limited to those materials listed for specific types of applications in Sections 5.28 and 5.29 , and those materials required to show full compliance with this chapter and all other applicable City, state, and federal laws.
- B. Required application materials may include additional studies or analyses not specified in this chapter or on application forms including but not limited to traffic studies, environmental assessments, utility analyses, community impact analyses, market studies, need analyses or other studies or documents if the Planning Manager determines that those materials are necessary to accurately evaluate the impacts of the proposed Development. All application materials shall be submitted to PDSU unless this chapter indicates a different place for filing.<sup>326</sup>
- C. No application under this chapter shall be considered complete, and no application under this chapter shall be circulated for review or approval, until all of the required materials have been submitted and all applicable fees have been paid. This includes but is not limited to fees established by resolution for zoning, annexation, special exceptions, site plans, and zoning permits. If the Planning

<sup>322</sup> Section 5:122(5)

<sup>323</sup> Separate section for Natural Features Statement of Impact has been deleted, and the required content simplified and moved to the information required for submittal of a site plan, which is how the Statement of Impact is now used in practice.

<sup>324</sup> Several sections have been reordered from Section 5.28 (General Procedures) to Section 5.29 (Specific Procedures), and vice versa, since the prior draft. Section on Administrative Adjustments has been deleted since prior draft. Materials on amendments and modifications are now consolidated in Section 5.30.

<sup>325</sup> This introductory text is new.

<sup>326</sup> Revised to add standard for requesting additional materials, and to reflect current practice.



Manager determines that the application is incomplete, it shall be returned to the Applicant for completion and re-filing of the application.<sup>327</sup>

#### **D. Fees.**

The following fees are authorized by this chapter and shall be by resolution of the City Council upon the recommendation of the City Administrator.<sup>328</sup>

##### **1. Administration Fees<sup>329</sup>**

Before any application, petition or permit shall be issued covering Building or other operations regulated by this chapter, an Administrative fee shall be paid.

##### **2. Zoning Map Amendment Fees<sup>330</sup>**

~~Zoning map amendment fees may be reduced by resolution of the City Council by not more than 50% of the specified fees and must be based on a finding that the development would provide Affordable Housing for Lower Income Households.~~

Filing and review fees for amendments to the zoning map shall apply also to the owners of newly annexed property that require a City zoning classification.<sup>331</sup>

- a. If the amendment would require more than one classification, the fee shall be computed separately for each classification based on the size of the classification applied for.
- b. Any amendment to a zoning application (excepting technical amendments to correct minor errors in description) shall be accompanied by a fee equal to one-half the fee required for the amending classification.

##### **3. Wetland Use Permit Fees<sup>332</sup>**

The Wetland Use Permit fee will be for review of application and plans, and field inspections. A property owner may request of the PSA Administrator a preliminary assessment of the Site to determine whether or not the Site will be affected by provisions of this Code addressing Wetland use and permitting. No fee shall be charged for this determination.

##### **4. Grading Fees**

Grading Permits and inspection fees are subject to the following provisions:

- a. Inspection fees are to be paid prior to the issuance of a certificate of occupancy and release of the cash bond associated with the Grading Permit. Should construction activities begin prior to the issuance of a

<sup>327</sup> This is new text reflecting the City's current practice, with wording revised to clarify that it applies to all applications. Some of the text is currently found in the subdivision requirements of Sec. 5:25. Revised for clarity.

<sup>328</sup> Introductory text is new. Repetitive text from Sec. 5:131 and Sec. 5:102 was not carried over. This consolidates text in several current code sections establishing the duty to pay fees.

<sup>329</sup> Text from Sec. 5:93.

<sup>330</sup> Text from Sec. 5:108(3) and (4) (Amendments). Wording revised for clarity.

<sup>331</sup> Text on reimbursement was deleted because inconsistent with subsection F below.

<sup>332</sup> Text from Sec. 5:217.

Grading Permit, the permittee is subject to double the plan checking and inspection fees, as determined by the Planning Manager.

- b. A monthly inspection fee shall be assessed for land not stabilized or subject to Accelerated Soil Erosion, except for the construction of or addition to one Single- or Two-Family Dwelling or accessory Structure on a parcel zoned solely for residential purposes.
- c. An additional inspection fee shall be assessed for each inspection following the issuance of a correction notice for corrections to be performed in less than one month.
- d. Unpaid fees assessed in accordance with this chapter shall become a debt to the City from the land owner and may be collected as a single Lot assessment under Section 1:292 of this Code, or collected from the cash bond for the project, or in any other manner in which an indebtedness due the City may be collected.

**D.E. Reimbursements and Reductions**<sup>333</sup>

1. Reimbursements of fees for withdrawn applications and permits partially processed shall be offered as established by resolution of the City Council upon recommendation of the City Administrator.<sup>334</sup>

**1.2. Zoning map amendment Application fees may be reduced by resolution of the City Council by not more than 50% of the specified fees and must be based on a finding that the development would provide Affordable Housing for Lower Income Households.**

**5.28.2 Public Notice**

**A. Published Notice**

Notice of all public hearings shall be published in a ~~local daily~~ newspaper of general circulation not less than 15 days prior to the public hearing.

**B. Mailed Notice**

1. Prior to the Planning Commission or City Council's public hearing, the City shall mail a notice letter to the Person being assessed for the property that is subject of any area plan, site plan, land division, ~~or~~ preliminary plat, or as otherwise required by this chapter; all Persons being assessed for property within 300 feet; neighborhood associations duly registered with the PDSU that represent owners of property within 300 feet; and to occupants within 300 feet, regardless of whether the property or Structure is located in the zoning jurisdiction.
  - a. The mailed notice shall do all of the following:

<sup>333</sup> Relocated to be the last subsection in the fee discussion.

<sup>334</sup> From Ord. 10-19 replacing earlier reimbursement text.

- i) Describe the nature of the request.
- ii) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- iii) State when and where the request will be considered.
- iv) Indicate when and where written comments will be received concerning the request.
- v) State the date, time, and place of the Planning Commission or City Council public hearing.

**b.** The notice shall be mailed not less than 15 days before the Planning Commission or City Council's public hearing.

**b.c.** \_\_\_\_\_ If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the mailed notice.

**e.d.** \_\_\_\_\_ For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirements of this section that street addresses be listed do not apply to that group of adjacent properties.

#### **C. Posted Notice for Public Hearings**

A notice shall be posted by the ~~PDSU City~~ on ~~the affected~~ property that is the subject of a public hearing prior to held by the Planning Commission's ~~public hearing stating that Planning Commission is scheduled for any area plan, site plan, preliminary plat, or rezoning~~ (except for zonings associated with annexation and Single-Family residential zoning district designation or chapter text amendments). This notice shall include the same information provided in the mailed notice for public hearings. It shall be placed in a conspicuous location within ten feet of the Front Lot Line of the affected property at least one week prior to the ~~date the request is being acted upon by the Planning Commission public hearing~~.

#### **D. Public Display of Plans**

Area plans, site plans, ~~site plans for Planning Commission approval~~, PUD site plans, and preliminary plats under review shall be displayed in a publicly accessible location in City Hall for at least one week prior to the City Council and Planning Commission public hearings. Plans shall be current at the time of placement and subsequent revisions, if any, shall be available in the PDSU Office.<sup>335</sup>

#### **E. Published Notice of Approval**

Following amendment of ~~the zoning ordinance this chapter~~, including the zoning map, by City Council, one notice of the amendment shall be posted in a paper of

<sup>335</sup> Revised per Ord. 10-20.

general circulation in the local unit of government<sup>336</sup> within 15 days of adoption. The notice shall include:

1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
2. The effective date of the amendment.
3. The time and place where a copy of the amendment may be inspected or purchased.

### 5.28.3 Public Hearings<sup>337</sup>

#### A. General Requirements

1. Prior to Planning Commission recommendation and City Council final action of any area plan, site plan, PUD site plan, rezoning, land division, or tentative or final preliminary plat, each body shall hold a public hearing. Prior to its final action on a site plan for Planning Commission approval, the Planning Commission shall hold a public hearing. Whenever a Wetland Use Permit is required under this chapter, the public hearing or hearings required in this subsection shall be held concurrently with the public hearing or hearings required by Section 5.29.4. Also, Public hearings shall be held by the City Council, Planning Commission, and Zoning Board of Appeals as otherwise required provided by the procedures in this chapter.
2. A public hearing will be continued to or re-opened on a later date and the continued or reopened hearing shall be conducted in the same manner if either:
  - a. Final action by the Planning Commission or City Council is delayed more than six months after the initial public hearing.
  - b. In the judgment of Planning Manager, the project plan proposal has been substantially revised.

### 5.28.4 Citizen Participation Requirements<sup>338</sup>

#### A. Purpose

The intent of this Section 5.28.4 is to:

1. Ensure that Applicants seeking approval of planned projects, planned unit development zoning district, and amendments to the zoning map and other certain applications that require public hearings pursue early and effective citizen participation in conjunction with their proposed Developments, giving citizens an early opportunity to learn about, understand and comment

<sup>336</sup> The current text reads: “published in the Ann Arbor News” but has been replaced with text from MCL 125-3401(7).

<sup>337</sup> Text from Sec. 5:135. This section also incorporates state public notice requirements from MCL 125.3103 and 125.3202.

Current local requirements that do not conflict with state requirements were retained. The intent is to create one set of consistent public notice requirements for all Planning Commission and City Council public hearings, regardless of the type of application. All other sections in the current code that contain public notice requirements have been replaced with a cross reference to this revised section.

<sup>338</sup> Text from Sec. 5:110 and 5:135, including edits from Ord. 08-29.

upon proposals, and providing an opportunity for citizens to be involved in the Development of their neighborhood and community.

2. Provide clear expectations and formal guidance for Applicants to gather citizen comments regarding their proposals so that they may respond and attempt to mitigate any real or perceived impacts their proposed Development may have on the community.
3. Facilitate ongoing communications between Applicants and interested or potentially affected citizens throughout the application review process.

#### B. Type 1 Applications<sup>339</sup>

1. For purposes of this Section 5.28.4, a Type 1 application includes:

- a. any application for a new or amended planned project site plan;
- b. a new or amended planned unit development zoning district;
- c. an amendment to the zoning map;
- d. a proposed project containing over 80 Dwelling Units;
- e. a proposed project over 65 feet in height;
- f. a proposed project containing over 50,000 square feet of Floor Area; ~~and~~
- g. any proposed project that may require additional citizen participation depending on the scope, nature or any unique or unusual characteristics as determined by the Planning Manager;

1.2. For Type 1 applications, the following requirements shall be completed by the Applicant:

##### a. Preliminary Meeting

The Applicant shall meet with the PDSU to review the requirements set forth in this Section 5.28.4.

##### b. Required Notification<sup>340</sup>

The Applicant shall mail written information about citizen participation to all property owners, addresses and registered neighborhood groups within 1,000 feet of the proposed project site, as well as the PDSU, at least ten business days prior to the date of the citizen participation meeting. Addresses shall be provided by the PDSU. An electronic copy of the information must also be provided to the PDSU at least ten business days prior to the date of the citizen participation meeting to be forwarded to other interested citizens registered with the PDSU. At a minimum, the written information shall include all of the following in a format provided by the PDSU:

<sup>339</sup> Text reworded for clarity and to reflect current practice.

<sup>340</sup> Changed "Required Notification" to avoid confusion with public notice provisions.

- i) A statement explaining the citizen participation requirements, including identification of who is sending the notice, an explanation of why and to whom such information is being sent, the opportunities for participation, and how the information gathered through the citizen participation process will be used by the Applicant.<sup>341</sup>
- ii) A statement that an application is being prepared for submittal along with a written description of the proposal and a conceptual sketch of the Development and site plan.
- iii) The Applicant's schedule for citizen participation meetings, the anticipated application submittal date and the anticipated City review and approval schedule.
- iv) The date, time, and location of the meetings.
- v) How citizens will be provided an opportunity to discuss the application with the Applicant and express any concerns, issues, or problems they may have with the proposed project.

#### **c. Citizen Participation Meeting**

The Applicant shall hold at least one citizen participation meeting at least ten Business days prior to the established application submittal deadline. The meeting shall be organized and held in accordance with the Citizen Participation Meeting Guidelines provided by the PDSU.

#### **d. Final Citizen Participation Report**

The Applicant shall provide a written report in a format provided by the PDSU on the results of its citizen participation activities as part of the required information submitted for approval. At a minimum, the report shall include all of the following information in a format provided by the PDSU:

- i) Detailed description of the Applicant's efforts used to involve citizens, including dates and locations of all meetings; and copies of all written materials prepared and provided to the public, including letters, meeting notices, emails, newsletters and other publications.
- ii) A written statement of the number of citizens sent notices by mail, email or other, the number of citizens attending meetings, and copies of attendance or sign-in sheets of meetings.
- iii) A written summary of comments, concerns, issues, and problems expressed by citizen participants; a statement of how the Applicant has addressed or intends to address these concerns, issues or problems, or why a concern, issue or problem cannot or will not be addressed.

### **C. Type 2 Applications**

Type 2 Applications include any other type of application that requires a public hearing under this chapter but is not covered by Subsection 5.28.4B for Type ~~2~~1 applications. ~~the~~ The following requirements shall be completed by the Applicant:

<sup>341</sup> Requirements clarified to include identification of who is sending the notice.



### 1. Required Notification

The Applicant shall mail ~~a~~ written announcement to all property owners, addresses and registered neighborhood groups within 500 feet of the proposed project site, as well as the PDSU, within five business days of acceptance of the application by the PDSU. Addresses shall be provided by the PDSU. An electronic copy of the announcement must also be provided to the PDSU within five Business days of acceptance of the application to be forwarded to other interested citizens registered with the PDSU. At a minimum, the written announcement shall include all of the following information in a format provided by the PDSU:

- a. A statement that an application has been submitted with a written description of the proposal and a conceptual sketch of the Development and site plan.
- b. How citizens who have been sent notices will be provided an opportunity to discuss the application with the Applicant and express any concerns, issues, or problems they may have with the proposed project.

### 2. Citizen Participation Report

The Applicant shall provide the PDSU with written documentation of any meetings or discussions that are held with citizens at least ten business days prior to the Planning Commission public hearing on the application.

### D. Waiver of Requirements<sup>342</sup>

The Planning Manager may waive these requirements for applications to amend the zoning map when:

1. The requested zoning designation is PL (Public Land).
2. The application is to annex a parcel of less than two acres and zone the parcel for Single-Family residential use.
3. There is no proposed change in land use and no Development is proposed.

## 5.28.5 Design Review<sup>343</sup>

### A. Intent

The intent of this section is to foster excellence in the design of the City's built environment and apply the Downtown Design Guidelines, as approved by City Council, by requiring a mandatory review of certain projects in the downtown area by the Design Review Board. This section provides ~~petitioners~~ Applicants with the requirements of the Design Review Board's review process.

### B. Applicability

Projects that meet all of the following criteria shall submit an application to the Design Review Board:

<sup>342</sup> Text is from Sec. 5:110(4).

<sup>343</sup> From Ord. 11-07.



1. The project is on a Lot zoned D1 or D2; or is located within the Downtown Development Authority boundary on a Lot currently zoned or proposed to be zoned PUD.
2. The project is on a Lot that is not located within a historic district; and
3. The project proposes an increase in Floor Area.
4. The project is a:
  - a. Site Plan for City Council Approval.
  - b. a Planned Unit Development Site Plan.
  - c. a Site Plan for Planning Commission Approval.
  - d. a Planned Project Site Plan.
  - e. an Administrative Amendment to an Approved Site Plan that Significantly alters the appearance of the Building from the Public Right-of-Way, as determined by the Planning Manager.

### C. Submittal Requirements

The following steps shall be undertaken by the ~~petitioner~~ Applicant as part of the design review process.

#### 1. Optional Pre-Application Meeting

The ~~petitioner~~ Applicant may meet with PDSU staff prior to an application to the Design Review Board to review the Downtown Design Guidelines and Design review requirements set forth in this Section 5.28.5.

#### 2. Application

The ~~petitioner~~ Applicant shall submit an application for Design Review Board review. Preliminary project design plans shall be submitted with the application and shall include the following scaled drawings:

- a. Site plan.
- b. Floor plan(s).
- c. Elevations.
- d. Sections.

### D. Timing

Submission of the Design Review Board application shall be made such that the Design Review Board's meeting occurs prior to the Type 1 Citizens Participation Meeting, if applicable, otherwise prior to submitting for site plan.

### E. Number of Reviews

One review by the Design Review Board is required for each project that meets the applicability criteria of this Section 5.28.5B. Additional reviews for projects with design changes are optional and must follow the requirements of this section.

**F. Required Notice**

A Design Review Board meeting notice shall be mailed by the City to all property owners, addresses, and neighborhood groups within 500 feet of the Site<sup>344</sup> at least ten business days prior to the date of the Design Review Board meeting.

**G. Design Review Board Meeting and Report**

The Applicant shall present the project to the Design Review Board. The Design Review Board and the Applicant shall have an opportunity to discuss the design of the project and its consistency with the Downtown Design Guidelines. Following the discussion, the Design Review Board shall make a report of its discussion. This report shall be distributed to the Planning Commission and City Council as part of the site plan review and approval process.<sup>345</sup>

**5.28.6 Development Agreements<sup>346</sup>**

Approval of a final preliminary plat or site condominium land division shall be conditioned upon the execution of a Development Agreement that secures the completion of all public and private improvements shown on the approved plat or land division. Where the timing or nature of improvements require such Security, the approval of a site plan or a PUD site plan may be conditioned upon the execution of a Development Agreement. Where a PUD zoning district allows residential uses and proposes Development of at least 20% of the Dwelling Units as Affordable Housing for Lower Income Households, approval of a PUD site plan shall be conditioned upon the execution of a Development Agreement that assures the affordability and availability of such housing.

**5.28.7 Certificates of Occupancy**

- A.** No Building, Structure or zoning Lot for which a zoning permit has been issued shall be used or occupied until the Building Official has, after final inspection, issued a certificate of occupancy indicating compliance has been made with all the provisions of this chapter. However, the issuance of a certificate of occupancy shall not be construed as waiving any provision of this chapter.<sup>347</sup>
- B.** A certificate of occupancy or final permit approval shall not be issued for a Building or site improvement identified in the approved site plan, plat or land division, unless all required site improvements in the applicable Phase, including those associated with the protection and mitigation of Natural Features, have been installed and Final Acceptance obtained or the installation of the required site improvements has been secured as required by this Code. The property owner must provide a one-year Warranty after Final Acceptance, backed by Security, for all public and private roads, sanitary sewers, water mains and storm water conveyances and management systems. The Security for the one-year Warranty shall be \$5,000.00 or one percent of the cost of construction of the

<sup>344</sup> Cross-reference replaced by distance.

<sup>345</sup> Reference to posting on City web site was deleted.

<sup>346</sup> Text from Sec. 5:133 *Subdivision*, with text reordered.

<sup>347</sup> Text from Sec. 5:94.

facility warranted, whichever is greater. Unless designated as optional, all improvements shown on the approved site plan, PUD site plan, final preliminary plat or land division, or described in an executed Development Agreement, or included in an approved PUD Development Program or Supplemental Regulations, shall be considered required site improvements.<sup>348</sup>

- C. No certificate of occupancy shall be issued unless the provisions of Section 5.20 have been met or a performance bond or other Security has been posted as required by Section 5.28.8.<sup>349</sup>

#### **5.28.8 Security for Completion of Improvements**

- A. For developments with a single structure, where it would be impractical to delay occupancy prior to the completion of certain site improvements due to cold weather or lack of availability of paving or plant materials, a temporary certificate of occupancy for a Building may be issued upon the approval of the Planning Manager for a period of up to six months provided (1) all public utilities necessary to serve the Building have been constructed, passed initial acceptance testing and been maintained in a clean, operable condition and (2) Security is presented to the City for the remaining site improvements. Issuance of a temporary certificate of occupancy does not alter, reduce or change any other requirement necessary for a certificate of occupancy.
- B. For developments with more than one structure or more than one Phase where it would be impractical to delay occupancy for any Building prior to completion of all public and private improvements, a certificate of occupancy may be issued provided all the conditions in the following subparagraphs are met.
1. All proposed roads within the applicable Phase must be complete, including curb and gutter and associated sidewalks. Where it would be impractical to delay occupancy due to cold weather or lack of availability of paving materials, the road surface or associated sidewalk may be incomplete provided that the road meets fire services unit requirements and Security is posted for these items. For purposes of this section, road shall mean public road, private street or access Driveway.
  2. All other private site improvements within the applicable Phase, including but not limited to lead walks, pedestrian paths, Parking Spaces or Lots, storm water conveyance and management systems and landscaping directly adjacent to or for the direct benefit of any Building for which a certificate of occupancy is requested must be installed. Where it would be impractical to delay occupancy prior to the completion of certain private site improvements due to cold weather or lack of availability of paving or plant materials, Security may be posted for these items.
  3. All public utilities that serve the applicable Phase, including sanitary, storm and water conveyance and connection systems, are constructed, have passed initial acceptance testing and are in a clean, operable condition.

<sup>348</sup> Text from Sec. 5:132(4) *Subdivision*

<sup>349</sup> Relocated from Enforcement provisions in Art. VII of the UDC.

4. All easements for public facilities or improvements that serve or benefit the Phase must have been granted, accepted and recorded.
  5. Security has been posted to allow use of all public facilities prior to Final Acceptance. The purpose of this Security is to ensure that any repairs and/or maintenance required to restore public water mains, sanitary and storm systems within, servicing or benefitting the Site to an acceptable final condition can be accomplished. This Security must be maintained in full until Final Acceptance.
  6. The owner of the property has Signed an agreement acceptable to the City Attorney to make all repairs to all public facilities within the Site regardless of source of damage.
  7. All applicable provisions or obligations of the owner in a Development Agreement have been completed and fulfilled.
  8. The requirements of Section 5.28.10.A shall apply to the last Building within a multiple-Structure.
- C. Where Security is posted to secure any obligation of the owner in this chapter (other than the posting of a cash bond related to Grading in section 5.29.3), the following requirements apply:
1. The amount of Security required shall be the estimated costs to the City, as determined by the Planning Manager, to perform the activity to be secured plus 50% to cover contingencies, plus a nonrefundable Administrative fee for accepting, holding, and releasing the Security. Security posted for any activity may be applied to any other activity for which Security is required.<sup>350</sup>
  2. The Security shall be accompanied by an agreement acceptable to the City Attorney from the property owner insuring that the secured activities will be completed or satisfactorily performed by the deadline established by the Planning Manager. It shall authorize the City to go onto the property without any further notice or authorization from the owner and complete the construction, perform repairs or install uncompleted site improvements. It shall include an agreement by the property owner that if the secured activities are performed by the City and the costs to the City exceed the amount of the Security available to pay the costs, then the property owner agrees to pay the excess costs. The agreement shall provide an address to which the City may send the property owner via first class mail notices that may be required or appropriate under this ordinance. In the case of repairs, if the repairs are not made after reasonable notice to the owner, or if an emergency condition exists that requires rapid response without notice to the owner, the City may proceed to make or have made the necessary repairs and invoice the owner for all reasonable costs associated with the repairs. If the owner does not pay the amount owed within 20 days of the City sending the invoice, the City shall draw upon the posted Security for the full amount of the invoice plus any other outstanding costs for which the owner is obligated to the City.

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<sup>350</sup> Fee provisions were not carried over since they would be repetitive with other general standards in this section 5:27.3.

3. It shall be the responsibility of the owner to notify in writing the appropriate City departments when secured work or improvements have been completed and to request a compliance inspection for the Phase or Site. The City shall conduct the compliance inspection within 30 days of the request unless there is evidence that the work or improvements were incomplete at the time of the request. The property owner may request, in writing, return of Security only after all the obligations, improvements and facilities for which the property owner provided Security have been completed or fulfilled. Requests for return of the Security made prior to completion of the obligation for which the Security was posted are void and of no effect. Portions of the Security amount, with the exception of the public facility maintenance/repair Security, may be returned as work progresses, at reasonable intervals, provided that at all times the amount on deposit equals the estimated cost of the work to be completed plus 50%. Upon receipt of a written request and confirmation of Final Acceptance of a Phase or Site, the City will endeavor to return the remaining balance of the posted Security within 30 days of the date of Final Acceptance.
  4. Interest on the Security shall be computed for each quarter where the lowest principal balance during the quarter exceeds \$2,000.00. Interest shall be computed as simple interest at a rate 0.5% lower than the average earned by the City during the prior quarter on securities held pursuant to this Section 5.28.8 It shall be paid at the time the final principal balance is returned to the property owner. Any Security remaining with the City 18 months after the date set for completion of the work, as specified in the letter required by this Section 5.28.8, for which there is not a written request to return the balance, shall be forfeited to the City for the City's unrestricted use.
- D.** If improvements have not been completed by the stated date, the PDSU Manager may, after notice to the property owner, revoke the certificate of occupancy and/or transfer the Security to the City general fund. Thereafter the City shall be authorized to go onto the property and complete the construction or installation of uncompleted site improvements in accordance with the approved site plan, plat, land division, or Development Agreement with the funds available. If the cost to the City for completing the site improvements exceeds the amount of the Security, the City shall make demand upon all responsible parties for payment and, if the balance is not promptly paid, may proceed with collection.

## 5.29 Specific Procedures<sup>351</sup>

The provisions of this Section 5.29 apply to specific types of applications under this chapter and supplement those general procedures in Section 5.28 . In case of a conflict between the provisions of this Section 5.29 and those of Section 5.28 , the provisions of this Section 5.29 shall take precedence.

<sup>351</sup>Several sections have been reordered from Section 5.28 (General Procedures) to Section 5.29 (Specific Procedures), and vice versa, since the prior draft.

### 5.29.1 Zoning Permit<sup>352</sup>

A zoning permit shall be required in the following circumstances. When a building permit is also required, the building permit may serve in place of the zoning permit without separate zoning permit approval. When Special Exception Use approval is also required, separate zoning permit approval is not required unless specifically required by the Special Exemption Use approval.<sup>353</sup>

#### A. Buildings or Structures

A zoning permit is required for the construction, moving, Alteration, or repair (except ordinary repairs as defined in Chapter 100 of this Code) of any Building or other Structure, including an Accessory Structure, costing more than \$100.00 or is between 100 and 200 square feet in area. A building permit is required when the Building or Structure exceeds 200 square feet in area or is an addition of any size to an existing Building. Site plan approval may be required prior to issuance of a Zoning Permit or Building Permit.

#### B. Land Uses

A zoning permit is required to change a land use, change the use or type of occupancy of any Building, to establish or expand outdoor sales, or to extend any use on any Lot on which there is a non-conforming use, subject to the standards and regulations in this chapter for that use.

#### C. Fences and Dumpsters

A zoning permit is required for the construction of Fences consistent with Section 5.26 and for the placement of locations for dumpsters used for commercial recyclables and related screening consistent with Section 5.20.6 and Chapter 26, Section 2:5(4).<sup>354</sup>

#### D. Certification

Each zoning permit shall include a Certification of the Planning Manager's determination that plans, specifications, and the intended use for such Structure conform to the provisions of this chapter.

#### E. Advisory Opinions

If application for zoning permit is made prior to the application for a Building permit, a zoning permit may be considered to be only an unofficial advisory opinion of the Planning Manager that does not carry any guarantee or obligation on the part of the City. A record of all such applications shall be kept on file in the PDSU.<sup>355</sup>

<sup>352</sup> The term zoning compliance permit has been changed to zoning permit throughout. Text from Sec. 5:92. Text on Fence permits starting at current Sec. 5:433 has not been carried over, since Fence permits are already identified as a type of zoning permit and the Fence permit provisions on application materials and fees are already covered by new 5:27.2 and 5:27.3. Provisions on Planned Project Site Plans have been relocated to the Amendments and Modification section of the UDC, because this process is not used to approve general site plans but request [City Council](#) approval of site plans that do not comply with UDC standards – i.e. to request a modification of site plan requirements.

<sup>353</sup> Language revised and supplemented to be consistent with current practice.

<sup>354</sup> From Chapter 26:5(4).

<sup>355</sup> Text revised to address advisory nature of early applications, rather than required timing of applications.



#### **F. No Waiver**

Issuance of a zoning permit shall not be construed as waiving any provision of this chapter.

#### **G. Period of Validity**

Any zoning permit issued under the provisions of this chapter shall be valid only for a period of six months following the date of the issuance.

#### **H. Applications Requiring ZBA Action**

When the Planning Manager receives an application for a zoning permit as part of an application that requires Zoning Board of Appeals approval, the application and all supporting information shall be conveyed by the Planning Manager to the Zoning Board of Appeals.

#### **I. Criteria for Approval**

The Planning Manager shall issue a zoning permit if it determines that the application complies with this chapter and with all other applicable laws and regulations of the City.<sup>356</sup>

### **5.29.2 Sign Permit<sup>357</sup>**

#### **A. Signs Requiring a Permit**

Sign regulated by Sections 5.24.4 On-Premises Exterior Business Signs, 5.24.7, Real Estate Signs, or 5.24.11 Off-Premises Signs, shall not be erected, altered, relocated or maintained unless a permit for it is obtained from the City in accordance with the requirements of Section 5.24 and the following requirements.

#### **B. Exceptions**

No permit shall be required for ordinary servicing, repainting of existing Sign message or cleaning of a Sign. No permit is required for changing the Changeable Copy of a Sign unless the Changeable Copy is being replaced with a permanent Sign.<sup>358</sup>

#### **C. Application<sup>359</sup>**

Application for Sign permits shall be made upon forms provided for by the City and shall contain the following information:

1. Name, address and telephone number of the Applicant.
2. Location of Building, Structure or Lot to which the Sign is to be attached or erected.
3. Position of the Sign in relation to nearby Buildings, Structures and Lot Lines.
4. Drawings of the plans and specifications and method of construction and attachment to the Building or in the ground.

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<sup>356</sup> Subsection F is new text.

<sup>357</sup> Draft updated to reflect Ord. 13-04 passed by City Council on June 17, 2013.

<sup>358</sup> Altered to eliminate redundancy with building permit requirements and conform to definition.

<sup>359</sup> Text on application materials was not carried over, since that topic is addressed in 5:27.2. Text revised to match current practice, and to delete items repetitive of building permit requirements.



5. Name and address of the Person, firm, corporation or association erecting the Structure.
6. Insurance policy or bond as required by this chapter.
7. Such other information as the City may require to show full compliance with this and all other applicable laws of the City and the State of Michigan.
8. Permit applications for electronic Illuminated Signs shall include a copy of the manufacturer's specifications for luminance.<sup>360</sup>

#### **D. Building Permit Requirement<sup>361</sup>**

Signs requiring a new footing, framework, or attachment to a Building or Structure shall also be required to submit a Building permit application, unless determined unnecessary by the Building Official. The Building permit application shall include drawings, stress sheets and calculations showing the Sign as designed for dead load and wind pressure in accordance with Chapter 100 of this Code and shall bear the certificate or seal of a registered Architect or Professional Engineer. A Sign subject to a Building permit shall meet the materials, design and maintenance standards of Chapter 100 regardless of whether the Sign is visible from public property.<sup>362</sup> Nothing contained in Chapter 100 shall be construed to permit any Sign prohibited by this chapter. <sup>363</sup>

#### **E. Electrical Permit Requirement**

All new electric Signs or existing electric Signs requiring an electrical reconnection shall be required to submit an electrical permit application. All electric Signs and outside lighting shall be installed in accordance with the Electrical Code adopted by the City as referenced in Chapter 100 of this Code.<sup>364</sup>

#### **F. Display of Street Address**

No permit shall be issued pursuant to Section 5.24.3C or 5.24.5 unless the Applicant displays on the Premises the street address number in digits having a height of at least three inches that also meet the requirements of Chapter 2 of this Code.

#### **G. Criteria for Approval**

The City shall issue a Sign permit if it determines that the application complies with this chapter and with all other applicable laws and regulations of the City.<sup>365</sup>

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<sup>360</sup> Content added from ORD-13-04.

<sup>361</sup> Deleted because this is more appropriately addressed through the Building Permit application.

<sup>362</sup> This provision may be revised to apply to all signs – not just those requiring a sign permit – if that is determined to be current practice.

<sup>363</sup> Added for clarity and to reflect current practice.

<sup>364</sup> Added for clarity and to reflect current practice.

<sup>365</sup> Subsection D is new text.

### 5.29.3 Grading Permit<sup>366</sup>

The City has been granted authority, by the State of Michigan, as a Municipal Enforcement Agency to issue soil Erosion and Sedimentation control permits under Part 91 of 1994 PA 451 (Michigan Compiled Laws) as amended.<sup>367</sup>

#### A. Applicability

1. Except as exempted by this chapter, no Person shall do any Clearing or land or trees that results in any disturbance of Natural Features or in a cumulative total loss of more than 10,000 square feet of Canopy per calendar year, or any Grading, Stripping, excavating or filling of land or trees, unless the Person has a valid Grading Permit issued by the Planning Manager.
  - a. Permits issued pursuant to this chapter do not relieve the owner of responsibility for securing required permits for work to be done that is regulated by any other applicable code, ordinance, or agency.
  - b. Any permit issued shall become invalid if (i) the authorized work is not commenced within six months of the date issued, or (ii) the authorized work is suspended or abandoned for a period of six months after termination of substantial operations as determined by the Planning Manager.
2. A Grading Permit shall not be issued prior to any required site plan, final preliminary plat, or PUD site plan approval.
3. A Grading Permit shall be applied for and issued prior to a Building permit.
4. All public and private Development shall comply with this chapter, except as exempted by the permit exceptions section of this chapter.
5. A Grading Permit is required prior to any Earth Change except as provided elsewhere in Section 5.29.3.

#### B. Exceptions

Grading Permit exceptions shall not be construed as exemptions from enforcement procedures if excepted activities cause or result in a violation of this chapter. Notwithstanding any other provisions of this chapter, a Grading Permit will not be required under the following conditions if there will be no disturbance to Natural Features:

1. An Earth Change of a minor nature, such as an emergency utility repair, that is stabilized within 24 hours of the initial earth disturbance, and that will not contribute Sediment to lakes, Watercourses, or Storm Water Management Systems.
2. Earth Change activities that disturb less than 225 square feet in an isolated, self-contained area provided that the Planning Manager determines that by reason of such isolation and self-containment, the Earth Change will not contribute Sediment to lakes, Watercourses, or Storm Water Management Systems, and no danger or nuisance to private or public property will result

<sup>366</sup> Text starts at 5:655.

<sup>367</sup> This text is currently found in the definition of a Grading Permit.

from associated soil Erosion and Sediment. To assist the Planning Manager in making this determination, it may be necessary for plans and/or a Signed affidavit from the land owner to be submitted.

3. City public projects or installations that involve less than one acre of earth disturbance and are located more than 500 feet from the water's edge of a lake, Wetland or Watercourse, as determined by the Planning Manager.
  - a. All construction plans for City public projects shall include the information required by this Section 5.29.3 regardless of the necessity for a Grading Permit.
  - b. City public projects are subject to the standards, responsibilities, and enforcement listed in this chapter, regardless of the necessity for a Grading Permit.
4. Any other activities exempted in MCL 324.9915, 324.9915a, and 323.1705.

### **C. Grading Permit Application**

An application shall be required for each Grading Permit and shall be submitted to the Planning Manager by the landowner. Plans shall be submitted to the Planning Manager with each application for a Grading Permit in accordance with the minimum design standards specified in this chapter. The soil Erosion and Sedimentation control plans shall be designed to effectively reduce Accelerated Soil Erosion and Sedimentation. The plans shall be prepared, signed and sealed by a Professional Engineer or by an Architect. The Planning Manager may waive the preparation or signature and seal by the Professional Engineer or Architect when the work entails little Hazard to the adjacent property, does not disturb any Natural Features, does not include the construction of a Fill upon which a Structure may be erected, or is for construction of or addition to one Single-or Two-Family Dwelling or accessory Structure on a parcel zoned solely for residential purposes.

### **D. Application Data Required**

The plans and specifications accompanying the site plan, final preliminary plat, PUD site plan, or Grading Permit application shall contain the following data:

1. Name, address, and telephone number of the owner, developer, and Applicant.
2. A vicinity sketch at the scale of not more than one inch = 200 feet, or as otherwise determined by the Planning Manager, indicating the Site location as well as the adjacent properties within 500 feet of the Site boundaries, and showing relationship to any Watercourse.
3. A legal description or boundary line survey of the Site on which the work is to be performed.
4. A soil investigation report, survey or profile that shall include but not be limited to data regarding the nature, soil type, distribution, credibility, and supporting ability of existing soils or rock on the Site in accordance with United States Department of Agriculture soil survey standards.
5. A plan of the Site at a maximum scale of one inch = 50 feet or as otherwise determined by the Planning Manager, showing:

- a. Existing and proposed topography at a maximum of two foot contour intervals, elevations or similar slope descriptions, extending at least 50 feet beyond the Site boundary lines.
  - b. Location and description of any Structure or Natural Feature on the Site, and on the land adjacent to the site, extending at least 50 feet beyond the Site boundary lines.
  - c. Location and description of any proposed Structures or Development on the Site, including the physical limits of each proposed Earth Change and all proposed temporary and Permanent Soil Erosion and Sedimentation Control Measures.
6. Plans, cross-section and construction-quality details of all soil Erosion and Sedimentation Control Measures, existing and proposed on-site drainage and dewatering facilities, retaining walls, cribbing, planting, anti-Erosion devices or other protective devices to be constructed in connection with or as part of the proposed work.
  7. The estimated total cost of the required controls during construction, including dust emission control.
  8. The estimated total cost of protecting all exposed soil surfaces from Erosion should construction discontinue.
  9. An estimate of the quantity of Excavation and Fill involved.
  10. The amount of impervious area existing, proposed, and reconfigured to accommodate new improvements.
  11. If a Storm Water Management System is required pursuant to Section 5.22 , computations and design of the Storm Water Management Systems, including, but not limited to:
    - a. Calculations used to derive the runoff coefficient(s).
    - b. A map showing the drainage area and land tributary to the Site and estimated runoff of the area served by any drain.
    - c. Required storage volume calculations, including first flush, Bankfull, and 100-year storm events.
    - d. Calculations for the provided/proposed storage facility.
    - e. Required and proposed release rate calculations.
    - f. A plan for the continued maintenance of the permanent Storm Water Management System.
    - g. Any other pertinent calculations, as determined necessary by the PSA Administrator. If utilizing an alternative method of storm water detention, provide a written description of the alternative method of storm water detention and a written explanation as to why the proposed alternative conforms to the criteria of Section 5.22 .

12. A timing and construction sequence of each proposed Earth Change. The sequence of construction for the Site shall include installation of temporary and Permanent Soil Erosion and Sediment control measures, Stripping and Clearing, rough Grading, installation and Stabilization of Storm Water Management Systems, construction of utilities, roads, infrastructure, and Buildings, final Grading and landscaping, and removal of Temporary Soil Erosion and Sedimentation Control Measures. The sequence of construction shall identify all proposed phasing consistent with the approved site plan, final preliminary plat, or PUD site plan. A sample sequence of construction may be provided by the Planning Manager upon request.
13. A program proposal for the continued maintenance of all Permanent Soil Erosion and Sedimentation Control Measures that remain after Project Completion, including the designation of the Person or party responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the Permanent Soil Erosion and Sedimentation Control Measures are located.
14. Other information or data as may be required by the Planning Manager, such as a soil Erosion impact statement to include:
  - a. Consideration of alternative actions with evaluation of each.
  - b. A description of probable adverse environmental effects that cannot be avoided.
  - c. Identification of any negative impact to Natural Features, including Woody Plants.
  - d. An analysis of primary and secondary consequences of short-term uses of the environment in relation to the maintenance and enhancement of long-term productivity. Remedial, protective and mitigation measures are to be developed for any environmentally detrimental aspect.
15. If deemed necessary by the Planning Manager, a hydrological study may be required where the Clearing, Grading, or addition of Impervious Surface is proposed within a floodplain not regulated by the Michigan Department of Environmental Quality or unmapped flood prone areas of any lake, pond, Watercourse, or Wetlands. The study shall follow the format used by the Michigan Department of Environmental Quality for hydraulic reports, and shall demonstrate that the proposed activity complies with the review standards of this chapter.
16. All Grading plans and specifications, including extensions of previously approved plans, shall include provisions for soil Erosion and Sedimentation control, and storm water management.

#### **E. Review Resources**

The soil Erosion and Sedimentation control plan shall be reviewed and approved by the Planning Manager. The most recent versions of the following applicable resources may also be utilized by the Planning Manager as the standards and specifications for this chapter:

1. The Low Impact Development Manual for Michigan.
2. Michigan Department of Environmental Quality “Guidebook of Best Management Practices for Michigan Watersheds”.
3. The City Standards and Specifications Manual.
4. The Standards and Specifications of the Natural Resources and Conservation Service.
5. The Standard Specifications for Construction of the Michigan Department of Transportation.
6. The Rules of the Washtenaw County Water Resources Commissioner.
7. The Oakland County Soil Erosion Control Manual dated January 1, 1990.

#### **F. Criteria for Approval**

The soil Erosion and Sedimentation controls and Storm Water Management Systems shall be designed to the criteria in this chapter to the satisfaction of the Planning Manager. Grading Permits shall be issued if the Planning Manager determines that all of the following standards are met:

1. The proposed Grading will not cause Hazard to public safety and/or welfare.
2. The proposed work will not damage adjacent public or private property, or alter any existing drainage in such a manner as to damage adjacent or off-site property, or result in deposition of Debris or Sediment off-site, or result in deposition into any Wetland, Watercourse, Storm Water Management System, or Public Right-of-Way.
3. The area for which Grading is proposed is not subject to Erosion, settlement, slope instability or any other Hazard that cannot be protected against during the permitted Grading activities.
4. The land area for which the Clearing and/or Grading is proposed does not lie within a designated 100-Year Floodplain or unmapped flood prone area of any lake, pond, or Watercourse, unless the proposed Clearing and/or Grading is consistent with the current City Floodplain Management Resolution or any subsequently adopted Floodplain Management Ordinance and is determined to have no detrimental influence upon the overall function of the watershed.<sup>368</sup>
5. Disturbance to any Natural Feature is consistent with any approved site plan, final preliminary plat, or PUD site plan.
6. A soil Erosion and Sedimentation control plan is provided that meets the provisions of this chapter.

#### **G. Inspection Review<sup>369</sup>**

1. The requirements of this chapter shall be enforced by the Planning Manager.
2. The Planning Manager shall inspect the work and shall require adequate inspection of compaction by a Professional Engineer or by a soil testing agency approved by the Planning Manager, unless the Planning Manager

<sup>368</sup> A repetitive reference to the public welfare was deleted from this subsection.

<sup>369</sup> Text is from Sec. 5:663.



determines that such inspection requirements may be waived due to the non-hazardous nature of the Grading.

3. If the Planning Manager finds any existing conditions not stated in any application, Grading Permit or approved plan, the Planning Manager may refuse to approve further work until approval of a revised Grading plan which will conform to the existing conditions or take actions in accordance with Section 5.35.2.

#### **H. Bond Requirement**

A Grading Permit shall not be issued unless the Applicant shall first post with the City a cash bond, except for the construction of or addition to one single or Two-Family Dwelling or Accessory Structure on a parcel zoned solely for residential purpose. The cash bond shall be posted in accordance with the following provisions:

1. The cash bond shall be in the amount of the estimated total cost of (a) the work to protect all exposed soil surfaces from Erosion should Development discontinue and (b) implementing and maintaining all other soil Erosion and Sedimentation controls authorized by the permit. The PDSU Manager may waive all or part of the amount to the extent that the Official determines that the Hazard or danger created by the work does not justify the full amount, or to the extent that other provisions for securing the improvements are made.
2. The total cost shall be estimated by the Planning Manager. The refund of cash bonds shall be made to the permittee on the basis of work completed, as determined by the Planning Manager.
3. Every cash bond<sup>370</sup> shall be made on the conditions that the permittee shall comply with all of the provisions of this chapter, with all of the terms and conditions of the Grading Permit to the satisfaction of the Planning Manager, and shall complete all of the work contemplated under the Grading Permit within the time limit specified in the Grading Permit.

#### **I. Extension of Time**

If the permittee is unable to complete the work within the specified time, the permittee may, prior to the expiration of the permit, present in writing to the Planning Manager a request for an extension of time, setting forth the reasons for the requested extension. If, in the opinion of the Planning Manager, such an extension is warranted, the official may grant additional time for the completion of the work.

#### **J. Time for Review and Decision**

The Planning Manager shall approve, disapprove or require modification of an application for a Grading Permit within 30 calendar days following receipt of the application.

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<sup>370</sup> Reference to cash deposit changed to cash bond for consistency.



**5.29.4 Wetlands Use Permit<sup>371</sup>**

**A. Applicability<sup>372</sup>**

1. Except as otherwise provided in this Section 5.29.4 or by a Wetlands use permit approved by the City, no person shall:
  - a. Deposit or permit the placing of Fill material in a Wetland.
  - b. Dredge, remove, or permit the removal of soil or minerals from a Wetland.
  - c. Construct, operate, or maintain any use or development in a Wetland, including draining or directing water from an upland activity into a Wetland.
  - d. Drain surface water from a wetland.

**2. Non-Regulated Activities**

The following activities are not regulated by this Section 5.29.4

- a. The activities that are allowed in a Wetland without a permit by Pat 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
- b. Storm Water Retention/Detention Basins not intended nor acting as mitigation of any Wetlands disturbed by Development.
- c. Construction of or addition to a Single- or Two-Family dwelling on an approved subdivision or condominium that is less than three-quarters of one acre in size and zoned solely for residential purposes where the Wetland is wholly contained on the Lot.

**B. Application for Wetlands Use Permit**

Applications for a Wetlands use permit shall be filed with the PDSU <sup>373</sup>as prescribed below, and shall include the following:

1. A completed copy<sup>374</sup> of the State-approved Application for Permit and Application for Local Wetland Permit, with each section thoroughly completed.
2. Drawings that contain, at a minimum, the information provided for on the Application for Permit.
3. A Signed letter from the Applicant that explains why the project meets the Wetland Use Permit standards and criteria contained in Section 5.23.9 and 5.29.4G.

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<sup>371</sup> Text from current Sec. 5:206 and following sections.

<sup>372</sup> Current 5:204 and 5:205.

<sup>373</sup> Reference to CSA changed to PDSU for consistency and to match current practice.

<sup>374</sup> References to submitting ten copies of documents were deleted to match current practice.

4. A mitigation plan shall be submitted, if mitigation is proposed. In order to adequately review a proposed mitigation plan, the following information shall<sup>375</sup> be provided to the PDSU:
  - a. A brief overview of the plan including the short-range and long-range objectives for vegetation, hydrology, Grading, and monitoring.
  - b. A schedule of all mitigation activities, including coordination with other local and state agencies, if applicable.
  - c. A planting plan and plant list for the area(s) to be established. The use of native plants characteristic of local conditions is encouraged. Species should be selected based on the need for wildlife, restoration, landscaping, and recovery. The PSA Administrator shall, in consultation with knowledgeable Persons, maintain and update a list of botanical species which are considered invasive. Mitigation activities shall be performed without the use of Invasive Species.
  - d. A Grading and soil erosion control plan including existing and proposed conditions.
  - e. A description of all soils and materials to be used including their approximate volumes and origin.
  - f. Hydro-geological information sufficient to determine the Site's suitability for the mitigation.
  - g. Construction detail drawings for planting, soil erosion control, Stabilization, water conveyance, and all other items necessary to facilitate the review.
5. A monitoring plan (text or drawings or both) shall be submitted, if mitigation is proposed. In order to adequately review a monitoring plan, the following information shall<sup>376</sup> be provided to the PDSU:
  - a. A schedule and list of activities to be contracted and conducted related to the Site's hydrology, including sub-surface and surface water for a period of at least five years. A report and recommendation on the hydrologic conditions of the Site should be submitted to the PSA Administrator annually.
  - b. A schedule and list of activities to be contracted and conducted related to the Site's plant establishment and control of invasive exotic species for a period of at least five years. A report and recommendation on the plant establishment of the Site should be submitted to the PSA Administrator annually.
  - c. To assure that the objectives established in the mitigation plan are successful, the monitoring plan should indicate the mechanisms necessary

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<sup>375</sup> Text revised to indicate this is mandatory, to match current practice.

<sup>376</sup> Text revised to indicate this is mandatory, to match current practice.

to execute the recommendations from the annual reports and provide for additional monitoring after the five-year period.

### C. ~~PDSU and Public Service Area~~Administrative Review Procedures

~~The City shall review the application pursuant to this chapter and shall modify, approve (with or without conditions), or deny the application within 90 days after receipt of a complete application. An application for a permit shall not be deemed as received or filed until the City has received all information requested on the application form, the application fee, and other information required by this chapter and necessary to reach a decision. The period for modifying, approving, or denying an application begins as soon as all such information and the application fee are received by the City. If the City does not modify, approve, or deny the permit application within 90 days, the permit application shall be considered approved. Throughout this section, the Public Services Area is referred to as "PSA" and the Community Services Area is referred to as "CSA".~~<sup>377</sup>

- ~~1. Failure to supply complete information with a permit application may be reason for denial of a permit. The denial of a permit shall be accompanied with a written reason for denial.~~<sup>378</sup>
- ~~2.1.~~ 1. Upon receipt of an application, the Applicant shall forward the application and supporting documentation and plans to the Michigan Department of Environmental Quality (MDEQ) for review and comment.<sup>379</sup>
- ~~3.2.~~ 2. The PSA Administrator shall review the Wetlands use permit application to verify that all required information has been provided. At the request of the Applicant or the City, an Administrative meeting may be held to review the proposed activity in light of the purposes of this chapter.
- ~~4.3.~~ 3. Upon receipt of a complete application, the PSA Administrator may conduct or authorize the completion of a field investigation to review and verify the accuracy of information received. The receipt of a Wetlands use permit application shall comprise the property owner's permission to complete an on-site investigation.
- ~~5.4.~~ 4. If an MDEQ permit is required, the PSA Administrator shall coordinate field investigations with state agency Personnel to the maximum feasible extent.
- ~~6.5.~~ 5. Plans for Wetland mitigation shall be reviewed only after the requirements of Section 5.29.4G have been met.
- ~~7.6.~~ 6. It shall be the responsibility of the PSA Administrator to select a qualified Wetlands consultant or retain qualified staff to conduct Wetland field investigations and complete assessments on behalf of the City, if the PSA administrator determines its necessity.
- ~~8.7.~~ 7. When a Wetlands use permit application is not related to a site plan or activity necessitating review and approval of a site plan or plat by the

<sup>377</sup> Text moved to Paragraph G.

<sup>378</sup> Text moved to Paragraph G.

<sup>379</sup> Requirement that the Applicant forward the application to the City PSA has been removed since staff internally circulates all applications. City forward applications changed to the Applicant to reflect current practice.

Planning Commission or City Council, the CSA Administrator shall be responsible for granting or denying the application.

**9-8.** Prior to the decision of the CSA Administrator, notice of the Wetlands use permit application shall be sent by first-class mail to property owners within 300 feet of the boundary of the property upon which the activity is proposed at least ten days before the CSA Administrator makes a decision on the application, which notice shall indicate where and when the Wetlands use permit application may be examined and that the property owners receiving notice may file comments with the CSA Administrator.

#### **D. Planning Commission Review**

After the CSA and PSA have completed their review of a Wetlands use permit application, the application shall be referred to the Planning Commission if it relates to a proposed site plan or activity that requires review by the Commission pursuant to another provision of this chapter. A public hearing on the Wetlands use permit application shall be held by the Planning Commission at the same meeting at which it considers the related site plan or preliminary plat. The public hearing on the Wetland Use Permit application shall be held concurrently with the public hearing on the site plan or plat. Public hearing requirements shall be the same for the Wetland application as for the related site plan or preliminary plat. After conducting a public hearing the Planning Commission shall:

1. In the case of a site plan, a site plan for administrative approval, or a preliminary plat, make a recommendation to the City Council with regard to whether the Wetlands use permit application shall be issued and in connection with a favorable recommendation may suggest conditions.
2. In the case of a site plan for Planning Commission approval, modify, approve (with or without conditions) or deny the Wetlands use permit application.

#### **E. City Council Review**

Upon receipt of the Planning Commission recommendation on a Wetlands use permit application and the related site plan or preliminary plat that relates to a proposed Development or activity that requires City Council approval, the City Council shall hold a public hearing with regard to the Wetlands use permit application at the same meeting at which it considers the related site plan or preliminary plat. The public hearing on the Wetland Use Permit application shall be held concurrently with the public hearing required by this chapter for a site plan or plat. After conducting the public hearing, the City Council shall modify, approve (with or without conditions), or deny the Wetlands use permit application.

#### **F. Wetlands Use Permit Conditions**

1. A Wetlands use permit shall allow Development of land consistent with the permit and the plans, regulations, laws, and ordinances in effect at the time the Wetlands use permit is approved.
2. A Wetlands use permit issued under this Section 5.29.4 does not relieve the Applicant from the duty to obtain any required approvals from other local, state, and federal government agencies, nor shall issuance of permits issued

by other agencies relieve an Applicant of the need to obtain approvals required under this Chapter.

3. A Wetlands use permit shall become invalid if the authorized work is not commenced within six months of the date issued, or is suspended or abandoned for a period of six months after termination of substantial operations as determined by the CSA Administrator.
4. Whenever the City approves the issuance of a Wetlands use permit, it may:
  - a. Issue permits on a City-wide basis for a category of activities if the City determines that the activities are similar in nature, will cause only minimal environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment.
  - b. Impose conditions on a Wetlands use permit for a use or Development if the conditions are designed to remove an impairment to benefits gained from Wetlands, or if they are designed to mitigate the impact of a discharge of Fill material, or if they will otherwise improve water quality.
  - c. Establish a reasonable time when the construction, Development, or use is to be completed or terminated.

#### **G. Wetlands Use Permit Approval Criteria**

Applications made pursuant to this chapter shall be reviewed and shall be modified, approved (with or without conditions), or denied within 90 days of receipt of a complete application. An application for a permit shall not be deemed as received or filed until the City has received all information requested on the application form, the application fee, and other information required by this chapter and necessary to reach a decision. The period for modifying, approving or denying an application begins as soon as all such information and the application fee are received by the City. If the City does not modify, approve, or deny the permit application within 90 days, the permit application shall be considered approved.

In making a determination whether to approve a Wetlands use permit application, the Planning Commission, the City Council, or the CSA Administrator<sup>380</sup> shall consider the following standards and criteria:

1. Failure to supply complete information with a permit application may be reason for denial of a permit. The denial of a permit shall be accompanied with a written reason for denial.
- ~~5.2.~~ Except as provided in Section 5.29.4G.5, a permit for an activity listed in Section 5.29.4A and not exempted by Section 5.29.4A.2 shall not be approved unless the City determines that the issuance of a Wetlands use permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful.
- ~~6.3.~~ In determining whether the activity is in the public interest, the benefit that reasonably may be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity. The

<sup>380</sup> Reference changed from PSA to CSA administrator for consistency.

decision shall reflect local, state, and national concern for protection of natural resources from pollution, impairment, and destruction. The following general criteria shall be considered:

- a. The relative extent of the public and private need for the proposed activity.
- b. The availability of feasible and prudent methods and alternative locations and methods to accomplish the expected benefits from the activity.
- c. The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited, including the benefits the protected Wetland provides.
- d. The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
- e. The probable effect on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
- f. The size of the Wetland being considered.
- g. The amount of remaining Wetland in the general area.
- h. Proximity to any waterway.
- i. Economic value, both public and private, of the proposed land change to the general area.

**7.4.** A Wetlands Use Permit shall not be issued unless the Applicant has shown that the project or activity covered by the permit will not result in an unacceptable disruption to the aquatic resources. In determining whether a disruption to the aquatic resources is unacceptable, the criteria in (i) Section 30302 of Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and (ii) Section 5.29.4G.3 shall be considered. A permit shall not be issued unless the Applicant also shows either of the following:

- a. The proposed activity is primarily dependent upon being located in the Wetland.
- b. A feasible and prudent alternative does not exist.

**8.5.** Upon application for a Wetland Use Permit in a Noncontiguous Wetland that is less than two acres in size, the City shall approve the permit unless the City determines that the Wetland is essential to the preservation of the natural resources of the City. The City shall provide these findings in writing to the permit Applicant stating the reasons for its determination. In making this determination, the City must find that one or more of the following exist at the particular Site:



- a. The Site supports state or federal endangered or threatened plants, fish or wildlife appearing on a list specified in Part 365 of the Natural Resources and Environmental Protection Act, 1994 PA 451.
- b. The Site represents what is identified as a locally rare or unique ecosystem.
- c. The Site supports plants or animals of an identified local importance.
- d. The Site provides groundwater recharge documented by a public agency.
- e. The Site provides flood and storm control by the hydrologic absorption and storage capacity of the Wetland.
- f. The Site provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
- g. The Site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
- h. The Site provides pollution treatment by serving as a biological and chemical oxidation basin.
- i. The Site provides Erosion control by serving as a Sedimentation area and filtering basin, absorbing silt and organic matter.
- j. The Site provides sources of nutrients in water food cycles and nursery grounds, and sanctuaries for fish.

#### **G.H. Wetlands Mitigation Approval**

1. As authorized by this Section 5.29.4, the City may impose conditions on a Wetlands use permit for a use or Development if the conditions are designed to remove an impairment to the Wetland benefits, to mitigate the impact of a discharge of Fill material, or otherwise improve the water quality.
2. The City shall consider a mitigation plan if submitted by the Applicant and may incorporate the mitigation actions as permit conditions for the improvement of the existing Wetland resources or the creation of a new Wetland resource to offset Wetland resource losses resulting from the proposed project. Security may be required by the City to ensure that mitigation is accomplished as specified by the permit conditions. The City will, when requested by the Applicant, meet with the Applicant to review the Applicant's mitigation plan.
3. In developing conditions to mitigate impacts, the City shall consider mitigation to apply only to unavoidable impacts that are otherwise permissible utilizing the criteria under Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Mitigation



shall not be considered when it is feasible and prudent to avoid impacts or when the impacts would be otherwise prohibited under this Section 5.29.4

4. When considering mitigation proposals, the City shall make all of the following determinations:
  - a. That all feasible and prudent efforts have been made to avoid the loss of Wetland resource values.
  - b. That all practical means have been considered to minimize impacts.
  - c. That it is practical to replace the Wetland resource values that will be unavoidably impacted.
5. If the City determines that it is practical to replace the Wetland resource values that will be unavoidably impacted, the City will consider all of the following criteria when reviewing an Applicant's mitigation proposal:
  - a. Mitigation shall be provided on-site where practical and beneficial to the Wetland resources.
  - b. When subdivision a. of this subsection does not apply, mitigation shall be provided in the immediate vicinity of the permitted activity and within the same sub-watershed of the Huron River within which the proposed Wetland use is located (i.e., the Allen Creek, Fleming Creek, Honey Creek, Malletts Creek, Miller Creek, Swift Run Drain or Traver Creek sub-watersheds) where practical to the Wetland resources. If the proposed Wetland use is not within one of these listed sub-watersheds, then mitigation may be within the Huron River direct discharge area, provided that mitigation in the Huron River direct discharge area shall be within the City limits or within one mile upstream of the City limits. Mitigation upstream of the proposed Wetland use is preferred.
  - c. Only when it has been determined by the PSA Administrator that subdivisions a. and b. of this subsection are inappropriate and impractical shall mitigation be considered elsewhere.
  - d. Any proposal shall assure that, upon completion, there will be no net loss to the Wetland resources. Any mitigation plan approved under this Section 5.29.45.29.4H shall provide replacement of Wetlands disturbed at a ratio of no less than 1.5:1 and no more than 2:1, in accordance with the current federal rules and state operating procedures. If those rules and procedures change, the most current ratio shall be used.
  - e. The proposal shall give consideration to replacement of the predominant functional values lost within the impacted Wetland.
6. Any mitigation activity shall be completed before initiation of other permitted activities, unless a Phased concurrent schedule is agreed upon between the City and the Applicant.

7. Monitoring to establish documentation of the functional performance of the mitigation may be required as a permit condition, as well as necessary corrective actions required, to deliver the Wetland resource values identified.

#### **H.I. Approval for Public Projects<sup>381</sup>**

City Council may determine that there is a legitimate public need for a proposed public project that is greater than the need to protect a Wetland, and that the project may be exempted from certain requirements of this Section 5.29.4.

1. For a project to be considered for exemption from any requirement of this Section 5.29.4, City Council must find, after full review and public hearing, that all of the following exist:
  - a. The project is either being performed by or required by a public agency.
  - b. There is a legitimate public need for the project that is greater than the need to protect a Wetland.
  - c. The proposed use cannot reasonably be accomplished utilizing alternative designs on-site.
  - d. A reduction in the size, scope, configuration, or density of the design that would avoid, or result in less, adverse impact on a regulated Wetland cannot be reasonably accomplished.
  - e. Mitigation shall be provided to the maximum extent possible within the scope of the project.
2. In determining whether the legitimate public need for the project exceeds the need to protect a Wetland, the City Council must find the benefit reasonably expected to accrue from the project shall be greater than the reasonably foreseeable detriments of the activity. The following general criteria shall be considered:
  - a. The relative extent of the public need for the proposed activity.
  - b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
  - c. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public uses to which the area is suited, including the benefits the Wetland provides.
  - d. The probable impact of the project in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
  - e. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
  - f. The size of the Wetland being considered.

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<sup>381</sup> Title changed from Approval for Legitimate Public Need.

- g. The amount of remaining Wetland in the general area.
- h. Proximity to any waterway.
- i. Economic public value of the proposed land change to the general area.

#### **I.J. Assessment Revaluation**

1. If a Wetland Use Permit is denied by the City for a proposed use, the landowner may request a revaluation of the affected property for assessment purposes to determine its fair market value under the Wetlands use restrictions.
2. A landowner who is aggrieved by a determination, action, or inaction under this Section 5.29.4 may protest and appeal that determination, action, or inaction pursuant to the General Property Tax Act (Act 206, Public Acts of 1893), as amended, (MCL 211.1–211.157).

#### **5.29.5 Special Exception Use<sup>382</sup>**

All applications for Special Exception Uses shall be reviewed pursuant to this Section 5.29.5.<sup>383</sup>

##### **A. Application**

All applications for Special Exception Uses shall be in writing, signed and filed with the PDSU and shall contain the following:

1. The Applicant's name, address and interest in the application as well as the name, address and interest of every Person having a legal or equitable interest in the land covered by the application.
2. A description of the proposed Special Exception Use sought.
3. A site plan that meets the requirements of Section 5.29.6. If no Development is proposed, the Planning Manager may waive inapplicable sections of the required site plan information except for the cover, existing conditions and dimensional site plan sheets.<sup>384</sup>
4. Supporting statements, evidence, data, information and exhibits that address those standards and requirements for assessing Special Exception Use permit applications outlined in Section 5.29.5D.

##### **B. Public Hearing**

The PDSU shall forward each application for a special exception to the Planning Commission, which shall hold a public hearing on any proposed Special Exception Use pursuant to Section 5.28.3.<sup>385</sup>

<sup>382</sup> Text from current Sec. 5:104.

<sup>383</sup> Text referring to original date of adoption was deleted; standard Nonconforming Use provisions now apply. Materials on modification of Special Exception Uses moved to Section 5.30.

<sup>384</sup> Second sentence added to reflect current practice.

<sup>385</sup> Existing text deleted and replaced with cross reference to revised and consolidated public hearing requirements.

### **C. Planning Commission Action**

Following the public hearing, the Planning Commission may approve (with or without conditions) or deny the application based on the criteria listed in Section 5.29.5D. The decision on a Special Exception Use shall be incorporated in a statement of findings and conclusions relative to the Special Exception Use which specifies the basis for the decision and any conditions imposed. <sup>386</sup>

### **D. Criteria for Approval<sup>387</sup>**

The Planning Commission, in arriving at its decision relative to any application for a special exception, shall apply the following criteria and, if the decision is to approve or approve with conditions, shall make a finding that these criteria have been substantially met.

1. The proposed use(s) shall be of such location, size and character as to be compatible with the appropriate and orderly Development of the zoning district and adjacent zoning districts in which the Site is situated. In applying this standard, the Planning Commission shall consider whether the proposed use:
  - a. Will be consistent with the general objectives of the City Master Plan.
  - b. Will be designed, constructed, operated and maintained in a manner that is compatible with the existing and planned character of the general vicinity.
  - c. Will be consistent with the general character of the neighborhood considering population density, design, scale and bulk; and the intensity and character of activity.
  - d. Will not be detrimental to the use, peaceful enjoyment, economic value or Development of neighboring property, or the neighborhood area in general.
  - e. Will not have a detrimental effect on the natural environment.
2. The location and size of the proposed use(s), the nature and intensity of the Principal Use and all Accessory Uses, the Site layout and its relation to streets giving access to it, shall be such that traffic to and from the use(s), the assembly of Persons in connection with the use(s), and the effect of the proposed use(s) on public services and facilities, will not be Hazardous or inconvenient to the neighborhood nor unduly conflict with the normal traffic

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<sup>386</sup> Required by MCL125.3502 (4)

<sup>387</sup> The following language from current Sec. 5:104(4) was not carried over because it is repetitive with the text of this section. In order to grant or amend a Special Exception Use permit, the Planning Commission shall find that the foregoing standards are substantially met by the Applicant and shall make its decision based upon findings relating to the requirements and standards as particularly set forth in the ordinance, the intent and purpose of the zoning ordinance, and the effect the proposed use will have on adjacent uses of land, the natural environment, and the capacity of public services and facilities affected by the land use.

of the neighborhood. In applying this standard the Planning Commission shall consider, at a minimum:

- a. The location of and access to off-street parking and the safe provision for pedestrian traffic.
  - b. The relationship of the proposed use to main traffic thoroughfares and to streets and road intersections.
  - c. Vehicular turning movements in relationship to traffic flow routes.
  - d. The intensity and character of traffic and parking conditions on the Site, and in the general area.
  - e. The requirements for additional public services and facilities that will be created by the proposed use will not be detrimental to the social and economic welfare of the community.
3. The standards of density and required Open Spaces for the proposed use shall be at least equal to those required by this chapter in the zoning district in which the proposed use is to be located, unless a variance is granted pursuant to Section 5.29.12.

#### **E. Conditions**

1. Reasonable conditions may be imposed upon approval of a Special Exception Use to reduce any detrimental effect to a minimum.
2. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner.
3. Conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, shall become part of the site plan, and shall remain unchanged except upon mutual consent of the Planning Commission and the land owner after a public hearing that meets the notification requirements established in Section 5.29.5B.
4. The Planning Commission shall maintain a record of the conditions that are changed.<sup>388</sup>

#### **F. Activation and Continued Operation**

Any Special Exception Use approval pursuant to this Section 5.29.5 must be activated within three years of the date of approval. If the use is activated within this period, the approval shall continue in force so long as the particular use or activity continues to operate as approved on the approved Site, unless otherwise specified in the Planning Commission approval.

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<sup>388</sup> New provisions.

### **G. Lapsing**

When a use approved and activated under this Section 5.29.5 or existing on August 18, 1983, ceases to function or is abandoned for a period of 24 months, the Special Exception Use status shall lapse and shall no longer be in effect. A 12-month extension to the 24-month period may be approved by the Planning Commission if:

1. The Applicant requests the extension within 24 months of the date on which the date on which the use ceased to function or was abandoned.
2. The active use of the property is anticipated to re-start within 12 months of the request for extension.
3. The anticipated active use of the property will comply with all of the criteria applicable to the initial approval of the Special Exception Use that has ceased to function or been abandoned.<sup>389</sup>

### **5.29.6 Site Plans<sup>390</sup>**

A site plan is required to construct, install or place any Building or site improvement or remove or disturb any Natural Features in accordance with the requirements and standards in this chapter, unless an exemption for that type of Building, site improvement, or activity is listed in subsection A below.<sup>391</sup>

#### **A. Applicability**

An approved site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any Natural Features, except for:

1. Construction of or addition to one Single-Family or Two-Family Dwelling or Accessory Structure on a parcel zoned solely for residential purposes.
2. Removal or disturbance of any Natural Features on a Lot which contains one Single-Family or Two-Family Dwelling and is zoned solely for residential purposes.
3. Construction solely on the interior of a Building that does not increase Floor Area.
4. Construction, erection, or placement of the following:<sup>392</sup>
  - a. Signs.
  - b. Retaining walls; Fences; buffer walls.
  - c. Curb carts for solid waste; and dumpsters used for commercial recyclables and related screening that encloses up to 100 square feet.
  - d. Fire escapes.

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<sup>389</sup> Conditions 1 through 3 were added to meet legal requirements for standards and to reflect current practice.

<sup>390</sup> Text from Sec. 5:122 and following. The section on Time Limits in current sec. 5:130 was repealed by Ord. 10-23.

<sup>391</sup> Text from Sec. 5:132(1).

<sup>392</sup> Revised to reflect and clarify current City practice in not requiring site plans for certain types of activities and improvements.



- e. Sidewalks.
- f. Wireless Communication Antennas and associated facilities located on Buildings or on other existing Structures or on previously approved and constructed Wireless Communications Towers; Dish Antennas and windmills located on Buildings.
- g. Lights; poles.
- h. Cooling, heating or mechanical equipment when located on a Building or occupying a ground area of less than 100 square feet.
- i. One Accessory Building up to 240 square feet and up to 14 feet in height, for storage or other nonhabitable use, subject to all dimensional standards of the zoning district in which it is located.<sup>393</sup>
- j. Deck or patio, or a combination of both, up to a total of 240 square feet for a Dwelling Unit in an attached Single-Family residential development.<sup>394</sup>
- k. Awning of any size, or Canopy or similar accessory Structure for shade up to 240 square feet, when over existing Impervious Surface.<sup>395</sup>

## B. Approving Body<sup>396</sup>

### 1. City Council

City Council approval of all site plans is required unless the proposed Development is exempt from site plan review as provided above or has been delegated to the Planning Commission or ~~Administrative~~administrative Approval~~approval~~ as provided below.

### 2. Planning Commission<sup>397</sup>

Planning Commission approval of a site plan is required for one or more of the following:

- a. Accessory Buildings and Structures exceeding the size of those allowed with ~~Administrative~~administrative Approval~~approval~~. Common accessory buildings and structures include garages; carports; freestanding automatic teller machines; more than one Dish Antenna on a parcel; windmills and solar panels not located on a Building; Wireless Communications Towers.

<sup>393</sup> Clarification of current language.

<sup>394</sup> Included to reflect current practice.

<sup>395</sup> Included to reflect current practice.

<sup>396</sup> Included to reflect current practice.

<sup>397</sup> List has been simplified for administration and to reflect current practice.



- b. Cooling, heating or mechanical equipment occupying a ground area exceeding ~~the regulations of those allowed with Administrative Approval~~Section 5.29.6.A.4.h.
- c. Outdoor storage areas, permanent outdoor sales areas.
- d. Paving an existing Parking Lot, increasing the area in square feet of a Vehicular Use Area<sup>398</sup>, or construction of a new access road or Driveway.
- e. Modifications to an approved Natural Features protection plan or Natural Features mitigation plan that are not covered under the Site Plan for ~~Administrative-administrative Approval-approval~~ requirements.
- f. Any minor change listed in Section 5.29.6B.3 when there is no approved site plan on file.

### 3. Administrative Approval<sup>399</sup>

Administrative approval of a site plan is required for minor changes to an approved site plan including one or more of the following:

- a. Building additions of 10% of the existing Floor Area, up to 10,000 square feet.
- b. Extension of a valid site plan approval for periods up to two years if the approval is requested prior to expiration of the site plan and if the plan is in compliance with current laws and regulations.<sup>400</sup>
- c. One Accessory Building for storage or other nonhabitable use greater than 240 square feet of Floor Area, but not to exceed 5,000 square feet of Floor Area, 5% of the Lot Area, and 14 feet in height.
- d. Change to or addition of Development phasing lines.
- e. Change in Building Height that does not create new Floor Area.
- f. Relocation of sidewalks.
- g. Change of location or type of landscape or screening materials. Where more landscaping area or materials are shown than required by 5.20 , these elements may be reduced by no more than 20% of the additional amount originally approved.
- h. Relocation of refuse collection stations.

<sup>398</sup> Clarification of current language.

<sup>399</sup> Text from Sec. 5:122(5) *Site Plans*. List of items has been slightly revised to reflect current practice.

<sup>400</sup> Requirement to apply for extension before expiration added to reflect current practice.

- i. Rearrangement or reconfiguration of the parking stalls and aisles within the Vehicular Use Area of an approved site plan, subject to the off-street parking standard.<sup>401</sup>
- j. Decrease in Building size.
- k. Moving a Building no more than ten feet or 5% of the distance to the closest Lot Line, whichever is smaller.
- l. Relocation or addition of no more than 50% of the approved storm water detention capacity.
- m. Change in species or placement of plant material included in an approved mitigation plan, as long as the change does not result in a reduction of plant material or area from the original plan and the change meets the intent of the approved mitigation plan.
- n. Substitution of areas to be preserved in an approved Natural Features 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 area to be preserved in the approved protection plan.<sup>402</sup>
- o. Removal of a tree identified on the site plan as a Landmark Tree to be saved, but recognized as an Invasive Species at the time of application for approval of the Administrative amendment.
- p. Addition of carports over existing legal Parking Spaces.
- q. Replacement or enhancement of a Wireless Communications Tower to accommodate co-location, provided that the Tower is not relocated more than 15 feet from the Base of the original Tower, nor is increased in height more than 20 feet above the original Tower height and meets all other applicable regulations.
- r. Addition of Canopy Structures over Vehicular Use Areas.

### **C. Approval Procedures<sup>403</sup>**

#### **1. Preliminary Procedure**

- a. Before submitting a site plan for formal review, the Applicant shall meet with the Planning Manager to review the proposal and applicable City requirements. To initiate a formal review, all drawings and other materials required by Section 5.28.1 shall be filed with the Planning Manager. A site plan shall not be considered filed until all drawings and other required materials have been submitted, and a site plan may be rejected if these materials are inadequate to confirm compliance with the

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<sup>401</sup> Clarification of current language.

<sup>402</sup> Reference to separate review criteria for Natural Features Statement of Impact was deleted because that separate document does not exist, and review criteria are now integrated into site plan review criteria.

<sup>403</sup> Includes revisions from Ord. 10-23.

requirements of this chapter. The Planning Manager shall review the site plan with other appropriate City departments and the Applicant and, except in the case of ~~an site plan for Administrative-administrative Approval modification to an approved site plan~~ pursuant to Subsection 5.30.1, shall make a report and recommendation on the proposed site plan to the Planning Commission.<sup>404</sup>

- b. Before submitting a petition, the ~~petitioner~~ Applicant shall contact the Planning Manager to schedule a pre-petition conference. At the conference the ~~petitioner~~ Applicant shall present the proposed conceptual site plan and development program. The staff may provide the Applicant with their comments regarding compliance with ~~ordinance of the proposed land uses, the proposal's conformance with adopted Master Plan and policies required site plan information, the appropriate approving body, and whether the project will require~~ the type of citizen participation ~~required~~; consistent with Section 5.28.4.
- c. Before submitting a site plan application for formal review, the ~~petitioner~~ Applicant shall comply with the citizen participation requirements in Section 5.28.4.<sup>405</sup>

## 2. City Council Approval<sup>406</sup>

The Planning Commission shall hold a public hearing and, within a reasonable time following the close of the public hearing, the Planning Commission shall make a recommendation to the City Council to approve or deny the site plan. Upon receipt of the Planning Commission's recommendation, the City Council shall approve (with or without conditions)<sup>407</sup> or deny the site plan within a reasonable time following the close of the public hearing. If approval is conditioned on changes to the site plan, the Applicant shall submit revised drawings with the necessary changes to the Planning Manager within 30 days of approval by the City Council or the site plan approval shall lapse. Any changes to a condition placed on the site plan by City Council shall require City Council approval.

## 3. Planning Commission Approval

The Planning Commission shall review and approve (with or without conditions)<sup>408</sup> or deny a site plan that proposes one or more of the minor modifications in Section 5.29.6B.2. If a site plan proposes any modification that would require City Council approval, then the Planning Commission shall make a recommendation to the City Council and the site plan, including

<sup>404</sup> Subsections i and ii were added from Ord. 08-29.

<sup>405</sup> Ord 08-29 had a cite to 5:135 here, but the written title matches 5:110 (the same section cited for other citizen involvement requirements, so that cross-reference was used).

<sup>406</sup> Former approval section divided into three sections based on level of approval, to reflect current practice.

<sup>407</sup> Added to reflect current practice.

<sup>408</sup> References to approval with conditions and to a Planning Commission recommendation have been added, to reflect current practice.

the minor modifications, shall be considered in the manner provided for site plans for City Council approval.

#### 4. Administrative Approval

The Planning Manager shall review and approve (with or without conditions)<sup>409</sup> site plans that propose one or more of the minor changes to an approved site plan provided in Section 5.29.6B.3 if the CSA Administrator and PSA Administrator verify in writing that the minor change will not significantly alter Natural Features shown to be preserved nor alter or conflict with the stated conditions of site plan approval.

#### D. Criteria for Site Plan Approval<sup>410</sup>

1. The Planning Commission or City Council shall make its decision on the site plan based on the following criteria:
  - a. The contemplated Development shall comply with all applicable local, state, and federal law, ordinances, standards and regulations.
  - b. The Development shall limit the disturbance of Natural Features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a Natural Features Plan as provided in Section 5.29.6G .<sup>411</sup>
  - c. The Development shall not cause a public or private nuisance and shall not have a detrimental effect on the public health, safety or welfare.<sup>412</sup>
2. The Planning Manager may approve a site plan for administrative approval if the change will not significantly alter natural features shown to be preserved nor alter or conflict with the stated conditions of the site plan approval and if the site plan is in compliance with current laws and regulations<sup>413</sup>. For a PUD site plan for administrative approval, the Planning Manager shall also determine that the proposed change does not alter the fundamental design, conceptual integrity, any specific conditions of the PUD

<sup>409</sup> Language is now consistent with City Council and Planning Commission approval.

<sup>410</sup> ~~This section may be revised to address when traffic impact analysis is required and the criteria for evaluation of traffic impacts.~~

<sup>411</sup> Reference to Natural Features Statement of Impact has been changed to Natural Features Plan.

<sup>412</sup> Criteria for Approval has not changed, except the word "will" has been replaced with "shall" in each standard.

<sup>413</sup> Section 5:122(5)

development program, the conceptual PUD plan or the supplemental regulations<sup>414</sup>.

The following restrictions shall also apply to Administrative Approval of a PUD site plan<sup>415</sup>:

a. Adjustment in approved phase lines shall not result in a change greater than 10% of the land area in any phase, or 10% of the number of approved Lots, or 10% of the approved maximum Floor Area.

e.b. Any decrease in Building size or changes in bedroom counts per Dwelling Unit shall not reduce the size or number of affordable housing units approved as part of the PUD site plan.

#### **E. Effect of Site Plan Approval**

1. For three years from the date of approval of a site plan, permits may be issued and the land developed consistent with that plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances are made applicable to previously approved Developments. After three years from approval, if Development activities have substantially ceased during the previous year, then no permits shall be issued unless the site plan is reconsidered in the manner provided for new site plans. Nothing in the section shall prevent permits, such as Grading and Building permits, from being issued after three years from approval provided that substantial and good-faith progress has been made during the previous year.<sup>416</sup>
2. An approved site plan shall become part of the record of approval. Subsequent actions relating to the activity authorized shall be consistent with the approved site plan and any Development Agreement, including but not limited to the measures for protection and mitigation of Natural Features.<sup>417</sup>
3. To obtain permits for any Building or site improvement, the property owner shall agree to construct, install or place all required site improvements in compliance with an approved site plan.<sup>418</sup> All public improvements must meet current City PSA Standards and Specifications. Prior to the issuance of any Building permit, site improvements necessary to meet the requirements for fire coverage and emergency access must be installed and approved by the fire service unit.<sup>419</sup>

<sup>414</sup> Section 5:123(6)

<sup>415</sup> Section 5:123(6)(a) and (b)

<sup>416</sup> Revised to clarify current practice.

<sup>417</sup> Subsection 2 text is from Sec. 5:132(2).

<sup>418</sup> Text from Sec. 5:132(3).

<sup>419</sup> Text from Sec. 5:132(3).

4. The property owner shall have a continuing obligation to maintain required site improvements, Natural Features to be preserved, and Natural Features mitigation in a good condition.<sup>420</sup>

#### F. Required Site Plan Information<sup>421</sup>

Applications for all types of site plans (Site Plan for City Council Approval, Site Plan for Planning Commission Approval, Site Plan for Administrative Approval) shall include the following information submitted in the format, and quantities, and manner as determined by the Planning Manager. The scale shall be no greater than 1":50'. Site plan sets should be organized as closely as practical according to the information requirements below but may be further separated or combined for clarity or efficiency depending on the size of the Site and complexity of the proposed Developments.

1. Cover Sheet – The following general project information should be provided on the cover sheet of the plan set and all subsequent sheets as appropriate.
  - a. Project name, address or location, and type of site plan.
  - b. ~~Petitioner-Applicant~~ and agent information, including name, address and contact information. If the Applicant is not the owner of the land, a letter of authorization to proceed with the application must be provided by the land owner.
  - c. Statement of interest in the land, including conditions for sale or purchases of parcels such as deed restrictions, reservation of land for other uses, or other conditions which may have bearing on the total land Development.
  - d. Vicinity map identifying the location of Site within the City, including nearest major roads and significant features such as schools, shopping centers and parks.
  - e. North indicator (pointing up or to the left) and drawing scale in bar graph form.
  - f. Legal description of the Site, including total acreage of the parcel(s) and total acreage of public or private roads contained in the legal description.
  - g. Sheet index and date of plan set.
  - h. Required Statements - A brief written statement addressing the following concerns:
    - i) Identification of associated applications such as annexation petition, rezoning petition, PUD Zoning District petition, Special Exception Use petition, planned project modification request, landscape modification request, or variance application. Identification of special circumstances associated with the application that require

<sup>420</sup> Text from Sec. 5:132(5).

<sup>421</sup> Existing materials have been reordered and revised for clarity and to reflect current practice.



- additional procedures or specific approvals such as Natural Features buffer area disturbance, Wetland Use Permit, brownfield application, historic district designation, or previously granted variances. History of previous site plan approvals.
- ii) Proposed development program, including proposed land use, improvements, Floor Area or number of Dwelling Units and bedrooms, access and circulation, off-street parking, preliminary construction phasing and estimated construction costs.
  - iii) Community Analysis
    - (a) Impact of proposed Development on public schools.
    - (b) Relationship of intended use to neighboring uses.
    - (c) Impact of adjacent uses on proposed development.
    - (d) Impact of proposed Development on the air and water quality, and on existing Natural Features of the Site and neighboring Sites.
    - (e) Impact of the proposed use on historic Sites or structures which are located within an historic district or listed on the National Register of Historic Places.
    - (f) Natural Features General Descriptions and Impacts: A brief summary of the Natural Features (Woodlands, Wetlands, water courses, Landmark Trees, Steep Slopes and Endangered Species Habitat) found on the Site. A detailed report of the quality, character and health of all existing Natural Features, and identification of all proposed impacts to them.
  - iv) Traffic Statement: The number of vehicle trips per unit per peak hour and supporting documentation from the ITE Manual.
  - v) Public Sidewalk Maintenance Statement
  - i. Comparison Chart of Requirements and Existing and Proposed Conditions
    - i) Zoning Classification.
    - ii) Lot Area.
    - iii) Total area of all Floors (measured from exterior faces of the exterior walls or from the center line of walls separating two Buildings), Floor Area and Floor Area Ratio (FAR), or Density.
    - iv) Open Space and Active Open Space.
    - v) Required Setbacks and Yards (front, side and rear).
    - vi) Height and stories.
    - vii) Off-street vehicle parking, including accessible and barrier free spaces.
    - viii) Bicycle parking, including class.
    - ix) Notation of variances granted or proposed, planned project modifications approved or proposed.



2. Existing Conditions Plan– Drawings and written descriptions of the existing conditions of the Site must be included on the plans, including the following:
  - a. ALTA Land Survey.
    - i) Exception: Where there are no existing public utilities on the Site, the Planning Manager may waive the requirement to provide an ALTA Land Survey for Site Plans for Administrative Approval or when the combination of existing conditions and proposed Development are so minor that preparing an ALTA Land Survey would be a significant financial hardship to the Applicant. In those cases, an existing conditions plan illustrating the boundaries of the Site, location of all structures and improvements, and any easements, prepared by a professional land surveyor must be provided.<sup>422</sup>
  - b. Existing and proposed contours extending 50 feet beyond the Site at a minimum interval of two feet.
  - c. If new City public sanitary sewer, water mains, Storm Water Management System, or streets are proposed in conjunction with a site plan, the plans must be referenced to the Ann Arbor Geodetic Reference System.
3. Dimensional Layout Plan – Drawings and written descriptions of the proposed Development must be provided on the plans, demonstrating compliance with all applicable Development standards such as building area, height and placement, off-street parking, streets and access, including the following:
  - a. Existing and proposed Lot lines.
  - b. Minimum and maximum Required Setback Lines, including Established Front Building Line and required increases to the normal minium side and rear setbacks, if applicable; existing and proposed Front, Side and Rear Yards.
  - c. Existing and proposed Buildings.
  - d. Vehicle Parking Spaces, aisles and Driveways. Identify any “no parking” areas or fire lanes and indicate any proposed signage.
  - e. Bicycle parking, including detail of facilities.
  - f. Curb Cuts, drive Approaches and curb radii dimensions, including all Curb Cuts on the opposite side of the street from the Site. Dimension of all Fire Department access roads or lanes, if applicable, including width at hydrant, dead end lengths, turn-around location, turning radii, etc.

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<sup>422</sup> This provides a specific requirement for current practice.

- g.** Open Space and Active Open Space.
  - h.** Natural features buffer.
  - i.** Conflicting land use buffer.
  - j.** Solid waste enclosure, including dimensioned detail.
  - k.** Perspective sketch of building showing Streetwall Height and Offset, if applicable.
- 4.** Natural Features Plan – Drawings and written descriptions identifying all Natural Features on the Site, proposed protection measures for avoiding disturbance to existing Natural Features, alternatives analysis, and proposed mitigation for any disturbed or removed Natural Features to determine compliance with applicable Development standards must be included on the plan, including the following:
- a.** Accurate location and description of all Natural Features within the Limits of Soil Disturbance and in an area extending 50 feet beyond the Limits of Soil Disturbance, including:
    - i)** Limits of Soil Disturbance.
    - ii)** Boundary and description of any Endangered Species Habitat.
    - iii)** Boundary and elevation of any 100-year floodplain.
    - iv)** Location, species and Critical Root Zone and condition of Landmark Trees.
    - v)** Location of all Steep Slopes and a cross section through the Site showing the proposed activity in relationship to the topography.
    - vi)** Existing and proposed Watercourses showing depths, normal water levels, shore gradients, type of bank retention and shore vegetation.
    - vii)** Boundary and character of all Wetlands.
  - b.** Boundary and basal area of any Woodland, with location, species and DBH of all trees six inches DBH or greater within the Woodland area.
  - c.** Location and extent of required Natural Features buffer. Identification of any temporary or permanent activity (i.e. impacts or disturbance) within the Natural Features buffer.
  - d.** When any activity within the Natural Features buffer is proposed, a written justification responding to each general criteria for determining a proposed activity in the Natural Features buffer is in the public interest.
  - e.** Protection measures for those existing Natural Features proposed to be protected as part of the Development, including protections from the construction of the Development.

- f.** Identification of all Natural Features proposed to be impacted, disturbed, or removed by the Development, including the construction of the Development.
  - g.** Alternatives Analysis: When any Natural Features are proposed to be removed or disturbed, drawings and descriptions of at least two alternative plans that were prepared and considered but are not proposed which demonstrate and justify that the proposed Development limits the disturbance or removal of Natural Features on and adjacent to the Site to the minimum necessary to reasonably accomplish the permitted use.
  - h.** Proposed mitigation measures: When any Natural Features are proposed to be removed or disturbed, proposed mitigation measures must be provided including:
    - i) Written description of the mitigation program, identifying the type and appropriate quantity (i.e. basal area, square feet, caliper inches) of Natural Features removed or disturbed and the appropriate quantity of the mitigation proposed.
    - ii) Replacement calculations.
    - iii) Location of proposed mitigation plantings.
    - iv) Chart listing the proposed mitigation plantings, including botanical and common names, caliper sizes, root type and height.
    - v) Timing schedule for implementation of mitigation measures.
    - vi) Notation and description of any proposed alternative mitigation measures.
- 5.** Natural Features Overlay Plan – A drawing including the dimensional layout and the existing Natural Features on Site.<sup>423</sup>
- 6.** Landscape Plan – Drawings and written descriptions of proposed landscaping, screening and buffers demonstrating compliance with applicable Development standards such as interior landscaping of Vehicular Use Areas, Right-of-Way screening, conflicting land use buffers, and Natural Features mitigation in order to determine compliance with applicable Development standards must be provided on the plans, including the following:
- a.** Location, size and species of existing trees and vegetation, and Natural Features.
  - b.** Location of light poles, refuse containers and enclosures, mechanical equipment and hydrants.
  - c.** Limits of Vehicular Use Area and notation of its size in square feet.
  - d.** Proposed locations of required landscaping, screening and buffers, street trees and plantings.

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<sup>423</sup> Revised to clarify requirement.

- e. Table identifying Vehicular Use Area, interior landscape islands, Right-of-Way screening, conflicting land use buffer, and street tree planting requirements and proposed plantings and areas to satisfy requirements.
  - f. Proposed plant list, including caliper sizes, root type, height of material, botanical and common name, type and amount of mulch, ground cover and grasses.
  - g. Notation of requested modifications if any.
  - h. Planting and staking details in accordance with the standards established by the PSA Administrator.
  - i. Specification for treatment of compacted soil on the entire Site.
  - j. Specification for planting media in landscape areas.
  - k. Irrigation plan or water outlets (hose bibs).
  - l. Landscape maintenance program, including a statement that all diseased, damaged, or dead material shall be replaced in accordance with this Code by the end of the following planting season as a continuing obligation for the duration of the site plan.
  - m. Identification of snow storage areas, including a statement that snow shall not be pushed onto interior landscape islands unless designed for snow storage.
  - n. Berms, retaining walls, screen walls, Fences, tree wells to preserve existing trees, culverts to maintain natural drainage patterns, or any other construction details necessary to resolve specific Site conditions.
7. Utility Plan – Drawings and written descriptions of the existing and proposed public utilities serving the Site must be provided on the plans, including the following:
- a. Location and size of existing and proposed public water, sanitary sewer and storm sewer mains and leads. Note invert elevations of storm and sanitary mains.
  - b. Location of existing and proposed fire hydrants. Indicate a 250-foot or 350-foot radius, as appropriate for the type of proposed Development, around each hydrant. Show and dimension hose lay to any external portion of a Structure via an approved fire route from any hydrant or combination of hydrants. Location of fire department connections (FDC) to Buildings. Dimension distance of the hose lay from the FDC to the nearest hydrant via an approved fire route (provide dimension following an actual hose laying route). Location of Knox Box, if applicable. Include a separate Fire Protection and Access Plan sheet if necessary for clarity.

- c. Location of existing Public Utility easements, including liber and page number.
  - d. Location and dimension of proposed Public Easements. Notation that legal descriptions of proposed easements will be provided with construction drawings and engineering plan submittals as required.
  - e. Sanitary sewer flow mitigation calculations.
  - f. Location and notation of firewalls within existing or proposed Buildings, or notation that none are existing or proposed.
8. Grading and Soil Erosion Control and Storm Water Management Plan - Drawings and written descriptions demonstrating compliance with the applicable Development standards for Grading and soil Erosion controls must be provided on the plans, including the following:
- a. Vicinity map showing location of Site and all adjacent properties within 500 feet of the Site boundaries showing relationship to any Watercourse.
  - b. Soil investigation report, survey or profile of data regarding the nature, soil type, distribution, erodibility, and supporting ability of existing soils or rock on the Site in accordance with the United States Department of Agriculture soil survey standards.
  - c. Existing and proposed topography at a maximum of two-foot contour intervals, elevations or similar slope descriptions, extending at least 50 feet beyond Site boundary.
  - d. Location of any existing Structure or Natural Feature on the Site and on land extending at least 50 feet beyond the Site boundary lines.
  - e. Location of proposed Structures or Development on the Site including physical limits of each proposed Earth Change and all proposed temporary and permanent soil Erosion and Sedimentation Control Measures.
  - f. Plans, section and construction –quality details of all soil Erosion and Sedimentation Control Measures, existing and proposed on-site drainage and dewatering facilities, retaining walls, cribbing, planting, anti-Erosion devices or other protective devices to be constructed in connection with, or as part of, the proposed work.
  - g. Estimated total cost of the required controls during construction, including dust emission control.
  - h. Estimated total cost of protecting all exposed soil surfaces from Erosion should construction discontinue.
  - i. Estimate of the quantity of excavation and Fill involved.

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- j.** Amount of impervious area existing and proposed, and square footage of impervious area reconfigured to accommodate new improvements.
  - k.** If a Storm Water Management System is required, computations and design of the Storm Water Management System, such as:
    - i) Calculations used to derive the run-off coefficients.
    - ii) Map showing the drainage area and land tributary to the Site and estimated runoff of the area served by any drain.
    - iii) Required storage volume calculations, including first flush, bankfull, and 100-year storm events.
    - iv) Calculations for the provided/proposed storage facility.
    - v) Required and proposed release rate calculations.
    - vi) A plan for the continued maintenance of the permanent Storm Water Management System.
    - vii) Any other pertinent calculations as determined necessary by the PSA Administrator.
    - viii) If an alternative method of storm water detention is proposed, a written description of the alternative method of storm water detention and a written explanation as to why the proposed alternative conforms to the Development standards of this Code.
  - l.** Timing and construction sequence of each proposed Earth Change, including: installation of temporary and permanent soil Erosion and Sedimentation Control Measures, striping and Clearing, rough Grading, installation and Stabilization of Storm Water Management Systems, construction of utilities, roads, infrastructure, and Buildings, final Grading and landscaping, and removal of temporary soil Erosion and Sedimentation Control Measures; identify all proposed phasing consistent with the approved site plan or final preliminary plat.
  - m.** A program proposal for the continued maintenance of all permanent soil Erosion and Sedimentation Control Measures that remain after Project Completion, including: designation of the person or party responsible for the maintenance; maintenance responsibilities shall become part of any sales or exchange agreement for the land on which the permanent soil Erosion and Sedimentation Control Measures are located.
  - n.** Other information or data as may be required to demonstrate compliance, such as a soil Erosion control statement including:
    - i) Consideration of alternative actions with evaluation of each.
    - ii) Description of probable adverse environmental effects that cannot be avoided.
    - iii) Identification of any negative impact to Natural Features, including Woody Plants.



- iv) Analysis of primary and secondary consequences of short-term uses of the environment in relation to the maintenance and enhancement of long-term productivity. Remedial, protective and mitigation measures are to be developed for any environmentally detrimental aspect.
  - v) If determined necessary by the ~~Code Official~~Planning Manager, a hydrological study may be required where the Clearing, Grading, or addition of Impervious Surface is proposed within a floodplain not regulated by the MDEQ or unmapped flood prone areas or any lake, pond, Watercourse, or Wetlands. The study shall follow the format used by the MDEQ for hydraulic reports and shall demonstrate that the proposed activity complies with the review standards of this Code.
9. Massing and Architectural Plans – Drawings and written descriptions of the massing, architectural design and details, and façade materials of proposed Buildings must be provided on the plans, including:
- a. Dimensioned floor plans of each building Floor identifying areas excluded from Floor Area and excluded from FAR calculations.
  - b. Vertical sections through the Site showing existing and proposed elevations.
  - c. Dimensioned architectural design and details with labeled materials.
  - d. Perspective renderings of the proposed Development.
10. Photometric Plan – Drawings and written descriptions of proposed lighting demonstrating compliance with the applicable Development standards, including:
- a. Location, type and details of proposed lighting fixtures.
  - b. Photometric diagram showing predicted maintained lighting levels of the proposed lighting fixtures.
11. ~~Traffic~~Traffic-Transportation Impact Analysis – For proposed Developments that will generate more than three ~~vehiele~~ trips per unit per peak hour or 50 ~~vehiele~~ trips per peak hour, a ~~traffic impact~~ traffic-transportation impact analysis must be provided including the following: The methodology to be employed in determining street capacities shall conform to the 1985 edition of the Highway Capacity Manual, Special Report Number 209 2010 Institute of Transportation Engineers' Transportation Impact Analyses for Site Development, or the latest revision thereof<sup>424</sup>.

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<sup>424</sup> Reflects latest revision of the Highway Capacity Manual.



- ~~e.a.~~ Existing traffic volumes passing on all streets abutting the proposed Development during the peak hour. Traffic from other new and proposed Developments in the area should be considered.
- ~~d.b.~~ Existing peak hour turning movements of vehicular and non-motorized traffic at all public street intersections within a minimum 200 feet of the proposed Development, or those intersections that may be impacted by the proposed Development.
- ~~e.c.~~ Projected peak hour generation rate and peak hours of generation for the proposed Development.
- ~~f.d.~~ Projected peak hour traffic movements as a result of the ~~establishment of the proposed facility~~ Development.
- ~~g.e.~~ A capacity analysis for impacted intersections.
- ~~h.f.~~ A statement of the total impact the projected generation will have on the existing level of service as determined and certified by a registered engineer.
- ~~i.g.~~ A sketch plan showing all existing Driveways to public streets within 200 feet of the proposed Development and all on-street parking or loading areas.
- ~~j.h.~~ Proposed Site access Driveways with a determination if a deceleration lane or taper is necessary based on current City warrant analysis standards, a determination if a left-turn by-pass lane is necessary based on a warrant analysis-, and a sight distance study at the Site access Driveway.
- ~~k.i.~~ A pedestrian circulation plan showing all possible points of conflict between motorized traffic and pedestrian/bicycle traffic on public streets and sidewalks within 200 feet of the proposed Development, or those intersections that may be impacted by the proposed Development.
- ~~j.~~ A gap study for pedestrian or vehicular traffic may be required at non-signalized locations that may be impacted by the proposed Development.
- ~~k.~~ The analysis shall include provide a determination of the service volume and capacity of adjacent streets including the traffic from the new development Development.

### **G. Criteria for review of a Traffic Impact Analysis**

1. The traffic and/or parking impact analysis shall be reviewed by the ~~Department of Transportation~~Public Services Area for completeness and accuracy.

~~The analysis shall include a determination of the service volume and capacity of adjacent streets including the traffic from the new development.~~

- ~~11.2. The methodology to be employed in determining street capacities shall conform to the 1985 edition of the Highway Capacity Manual, Special Report Number 200, or the latest revision thereof.~~ Proposals that will contribute traffic to streets or intersections that are or will be as a result of this proposal at a level of Service D, E, or F as defined in the Highway Capacity Manual may be denied by Commission and Council until such time as necessary street or traffic improvements are scheduled for construction.:

### **G.H. Criteria for review of Natural Features Plan**

In determining whether a proposed disturbance or removal of Natural Features is limited to the minimum necessary to allow a reasonable use of the land, the approving body shall apply the following criteria:

1. The importance and overall value of a Natural Feature, both on the Site and on a city-wide basis. In general, the importance of a Natural Feature increases with its rarity, size, age and condition.
2. The existence and overlapping Natural Features in one area. Overlapping Natural Features increase the importance and overall value for preservation of the area.
3. The impact of the proposed disturbance on the integrity of ecological systems or the continuity between Natural Features. Whenever possible, ecological systems and continuity between Natural Features should be preserved.
4. The amount of disturbance in relation to the scale of the proposed development and to that permitted by this chapter.
5. The adequacy of the mitigation plan.

#### **5.29.7 Area Plans<sup>425</sup>**

##### **A. Applicability**

An approved area plan ~~must be approved by the City Council prior to~~shall be required with:

1. The approval of any plat or site plan if the Applicant owns or controls contiguous land not included in the proposed plat or site plan.

<sup>425</sup> Text from Sec. 5:121, with changes as noted.

2. An amendment to the zoning map, unless the amendment is to permit a one-Family or Two-Family Dwelling in a residential zone or to permit a planned unit development (PUD) zoning district.

### B. Waiver of Requirement

Upon recommendation of the PDSU Manager, the Planning Commission may waive the area plan requirement upon the determination that no new construction is proposed and a survey of the existing improvements on the Site is provided, or ~~that all required information for such an area plan is included in~~ a preliminary plat or site plan that has been approved or is submitted for approval concurrently with an amendment to the zoning map.

### C. Area Plan Approval Procedures<sup>426</sup>

**a. Preliminary Procedures.** Before submitting an area plan for formal review, the Applicant shall meet with the Planning Manager to review the proposal and applicable City requirements. To initiate a formal review, all drawings and other required materials, as specified in this chapter shall be filed with the Planning Manager. An area plan may be rejected if these materials are inadequate to make the foregoing determinations.<sup>427</sup> The Planning Manager shall review the materials filed and, after conferring with the Applicant and appropriate City departments, shall submit a report and recommendation to the Planning Commission.

**b. Planning Commission Recommendation.** The Planning Commission shall hold a public hearing and, within a reasonable time following the close of the public hearing, the Planning Commission shall make a recommendation to the City Council to approve or deny the area plan.

**c. City Council Approval.** Upon receipt of the Planning Commission's recommendation, the City Council shall approve or reject the area plan within a reasonable time following the close of the public hearing.

**a.d. Administrative Approval of Conditions.** If approval by the City Council is conditioned on changes to the area plan, the Applicant must submit revised drawings with the necessary changes to the Planning Manager within 30 days of approval by City Council or the area plan approval shall lapse. If the revised drawings include all changes and conditions required by City Council, the Planning Manager shall approve the area plan.<sup>428</sup>

### D. Criteria for Area Plan Approval

An area plan shall be approved by the City Council after it determines that:

1. The contemplated Development complies with all applicable state, local or federal laws, ordinances, standards and regulations.

<sup>426</sup> Formatted for consistency with Section 5.29.6.C Approval Procedures [Site Plan]

<sup>427</sup> Requirements for a complete application have been deleted as repetitive of the general requirements in section 5:27.

<sup>428</sup> Includes revisions from Ord. 10-23. Final sentence added to reflect current practice.

2. The Development will limit the disturbance of Natural Features to the minimum necessary to allow a reasonable use of the land.
3. The Development will not cause a public or private nuisance and will not have a detrimental effect on the public health, safety or welfare.
4. If the area plan requires an amendment to the zoning map, the proposed uses or other uses permitted under the proposed zoning will be compatible with the City's adopted plans and policies.

#### **E. Effect of Area Plan Approval**

An area plan is valid until replaced by an approved plat or site plan. The ordinances and regulations in effect at the time of City Council approval of an area plan shall be applicable to a plat or site plan consistent with the approved area plan for a period of three years, unless amended ordinances or regulations are specifically made applicable to approved area plans during that period.

#### **F. Area Plan Submittal Requirements<sup>429</sup>**

~~Required Area Plan Information~~—Applications for area plans shall include the following information submitted in the scale, format and quantities, and manner as determined by the Planning Manager. ~~Site-Area~~ plan sets should be organized as closely as practical according to the information requirements below but may be further separated or combined for clarity or efficiency depending on the size of the Site and complexity of the proposed Developments.

1. General Project Information – The following information should be provided on the cover sheet of the plan set.
  - a. Project name, address or location.
  - b. ~~Petitioner-Applicant~~ and agent information, including name, address and contact information. If the ~~a~~Applicant is not the owner of the land, a letter of authorization to proceed with the application must be provided by the land owner.
  - c. Statement of interest in the land, including conditions for sale or purchases of parcels such as deed restrictions, reservation of land for other uses or other conditions which may have bearing on the total land Development.
  - d. Vicinity map of all property within 250 feet of the Development, north indicator and drawing scale in bar graph form.
  - e. Legal description of the Site, including total acreage of the parcel(s) and total acreage of public or private roads contained in the legal description.
  - f. Sheet index and date of plan set.

<sup>429</sup> Text from Attachment A of the Land Development Regulations, Sec. 1.3. Text requiring submittal of development program, community analysis, site analysis, and general information in prior draft has been dropped. Text revised to reflect current practice.



- f. Utility availability and proposed connections together with all existing Public Rights-of-Way and public and private easements.
  - g. Existing and proposed general drainage pattern of the Site and adjoining area.
  - h. A summary in the form of an overlay showing how the proposed land use or activity relates to the graphic description of the existing Site conditions including Natural Features.
4. Schematic Design – Drawings and written descriptions of the proposed Development, including the following:
- ~~Comparison chart of requirements and proposed conditions.~~
- a. Existing and proposed topography at five foot or best available contour intervals and Limits of Soil Disturbance.
  - b. Orientation and general location of all proposed improvements.
  - c. Vertical sections through the Site showing existing and proposed improvements will result in a significant change in a Steep Slope.
  - d. Proposed pedestrian, vehicle, and service circulation patterns on the Site.
  - e. Proposed Lot lines and Required Setback Lines.
  - f. Areas of Natural Features which are proposed to be removed or distributed and a general description of mitigation plans.
  - g. Natural Features General Descriptions: Woodlands, Wetlands, Landmark Trees, Watercourses, Steep Slopes, floodplains, Endangered Species Habitat.
  - h. Traffic Statement: The number of vehicle trips per unit per peak hour and supporting documentation from the ITE Manual.
  - i. Public Sidewalk Maintenance Statement.
  - j. Comparison Chart of Requirements and Existing and Proposed Conditions
    - i) Zoning Classification
    - ii) Lot Area.
    - iii) Total area of all Floors (measured from exterior faces of the exterior walls or from the center line of walls separating two Buildings), Floor Area and Floor Area Ratio (FAR), or Density.
    - iv) Open Space and Active Open Space.
    - v) Setbacks (front, side and rear).
    - vi) Height and stories.

vii) Off-street vehicle parking, including accessible and barrier free spaces.

viii) Bicycle parking, including class.

5. Traffic Impact Analysis - For proposed Developments that will generate more than three trips per unit per peak hour or 50 trips per peak hour, a transportation impact analysis must be provided as required in Section 5.29.6F.

### 5.29.8 Subdivisions<sup>430</sup>

No Person shall divide land for which plat or land division approval is required; unless the approvals required by this chapter and any necessary permits have first been obtained.<sup>431</sup>

#### A. Plats<sup>432</sup>

##### 1. Natural Features Necessity

Proposed plats shall be processed according to the Subdivision Control Act of 1967, as amended, (MCL 560.101 et seq.), and the requirements of this chapter.

##### 2. Plat Procedures

a. Preliminary Procedures. Drawings and other required materials shall be filed with the Planning Manager. The Planning Manager shall review the materials filed and, after conferring with the Applicant and appropriate City departments, shall submit a report and recommendation to the Planning Commission.

a.b. Recommendation and Approval Procedures. The Planning Commission shall make a recommendation to the City Council on the tentative approval of a preliminary plat. The Planning Commission shall also make a report and recommendation to the City Council prior to the time the City Council must act on the final approval of a preliminary plat. Prior to approval of the final plat, the City Administrator will provide the City Council with a report and recommendation on the plat.<sup>433</sup>

##### 3. Standards for Plat Approval

Tentative approval of a preliminary plat shall be granted by the City Council only after it determines that the Development meets all of the standards for an area plan in Section 5.29.7. Final approval of a preliminary plat shall be granted by the City Council only after it determines that the Development meets all of the standards for a site plan in Section 5.29.6. A final plat shall be approved by

<sup>430</sup> Text from Ch. 57: Subdivision and Land use Control, starting from Sec. 5:124, except the Purpose Statement, which is from 5:119.

<sup>431</sup> Text from Sec. 132(1).

<sup>432</sup> The Purpose Statement was deleted because its general purpose is already addressed in in Sec. 5.4.

<sup>433</sup> Includes edits from Ord. 10-23.



City Council if it is consistent with the approved final preliminary plat and meets all applicable laws, ordinances and regulations.

**B. Land Divisions<sup>434</sup>**

The purpose of this section is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended). A land division in violation of any provision of this Section 5.29.8 shall not be recognized as a land division on the City tax assessment rolls and no building permit shall be issued for any resulting parcel.<sup>435</sup>

**1. Necessity**

Proposed land divisions of unplatted parcels within the City shall be approved according to the State Land Division Act and the requirements of this Section 5.29.8B. The following shall be exempted from this requirement:

- a. A parcel proposed for subdivision through a recorded plat pursuant to Section 5.29.8A and the State Land Division Act.
- b. A division that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997.
- c. An exempt split as defined by the State Land Division Act.

**2. Procedure**

- a. A land division application shall be submitted to the Planning Manager.<sup>436</sup>
- b. The land division application shall be reviewed by PDSU, the Assessor Services Unit, Fire Services Unit, and PSA, and comments from each reviewing unit shall be forwarded to the Planning Manager.
- c. Within 45 days of the complete filing of a land division application, the PDSU Manager will provide written notice to the Applicant as to whether the land division is approved, approved with reasonable conditions, or denied and, if denied, the reasons for denial.
- d. Notice of the land division application shall be sent by first-class mail to property owners and residents within 300 feet of the boundary of the property upon which the division is proposed at least 14 days before the decision of the Planning Manager. The notice shall indicate where and when the land division application may be examined, that the owner or resident receiving the notice may submit comments in person or in writing to the Planning Commission, and that the owner or resident receiving the notice may file comments with the Planning Manager prior to the end of the review period.

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<sup>434</sup> Text from Sec. 5:125. Appeals procedures have been moved to section 5:27.8.

<sup>435</sup> Second sentence is from Sec. 5:125(4).

<sup>436</sup> Materials on the need for a complete application have not been carried over, since they would be repetitive of general procedures in section 5:27.

- e. The City Assessor shall maintain official records of all approved land divisions.

**3. Application**<sup>497</sup>

Applications for land division approval shall include the following information and shall be submitted to the PDSU:

- a. A written request, signed by the property owner(s) of the affected Lot(s), describing the request and identifying the addresses and tax identification numbers of the Lot(s), the history and specifications of any previous divisions of land to establish that the Lot was lawfully in existence as of March 31, 1997. A copy of the deed shall be provided for any Lots lawfully created after March 31, 1997.
- b. Complete and accurate legal description(s) of the existing Lot(s).
- c. Complete and accurate legal description(s) of the proposed Lots.
- d. A survey drawing of the proposed Lots drawn to a scale of approximately one inch = 50 feet or larger. The drawing shall include, at minimum, the following information:
  - i) Date, north arrow, scale, and name of the individual or firm responsible for completing the drawing.
  - ii) Existing and proposed Lot Lines and their dimensions.
  - iii) Existing Structures on the Lot(s) and Required Setback Lines, setback dimensions of all Structures to proposed property lines and any other Structure, public or private street, and driveways within 50 feet of all proposed property lines unless determined unnecessary by the Planning Manager to determine compliance with State and City requirements.
  - iv) Location and nature of proposed ingress and egress locations to any existing public or private streets.
  - v) Location of any public or private street, driveway, or utility easements to be located within any proposed Lot.
  - vi) Zoning designation of all proposed Lots.
  - vii) General location and description of any Natural Features located on the site and the general location and size of existing public utilities serving the Lots.
- e. Copies of the instruments describing and granting such easements for ingress and egress, driveways or utilities.

<sup>497</sup> Text from 1:17 Attachment A of Land Development Regulations

#### **4.4. Criteria for Approval**

The Planning Manager shall approve a land division only after ~~he or she~~ determininges that the land division meets all of the following criteria:

- a. Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, Public Utility easements, accessibility, and the other requirements of this section.
- b. Each resulting parcel has a width not less than the width required by this chapter.
- c. Each resulting parcel has a depth of not more than four times the width.
- d. Each resulting parcel has an area not less than the area required by this chapter.
- e. Each resulting parcel is accessible by meeting at least one of the following requirements:
  - i) Each resulting parcel is served by a Driveway that provides vehicular access to an existing road or street and meets all City standards and those of the authority having jurisdiction over the road or street to which access is planned.
  - ii) Each resulting parcel is served by an existing or proposed easement that provides vehicular access to an existing road or street and meets all City standards and those of the authority having jurisdiction over the road or street to which access is planned.
- f. Each resulting parcel has adequate easements for public utilities from the parcel to existing Public Utility facilities.

#### **4.5. Further Division of Platted Lots**

Any Lot, outlot or other parcel of land in a recorded plat shall not be divided into more than four parts unless the division is in full compliance with the provisions of the State Land Division Act. Any division of a platted Lot or outlot into four parts or fewer shall be approved according to the procedures and standards described in this Section 5.29.8B.

#### **5.6. Administrative Land Transfers**

The City Assessor and the Planning Manager may approve ~~property land~~ transfers between two or more adjacent parcels, if the transfer results in no new parcel being created upon which a Principal Building could be erected and if it does not cause a violation of this chapter. The Applicant shall provide to the Planning Manager the required materials as specified for land divisions in this chapter.

**C. Required Approvals and Compliance<sup>438</sup>**

1. Approval of a land division is not a determination that the resulting parcels comply with other ordinances or regulations, and is not a determination that a Lot is buildable.<sup>439</sup>
2. To obtain permits for any Building or Site improvement, the property owner shall agree to construct, install or place all required Site improvements in compliance with an approved plat or land division. All public improvements must meet current City PSA Standards and Specifications. Prior to the issuance of any building permit, Site improvements necessary to meet the requirements for fire coverage and emergency access must be installed and approved by the Fire Service Unit.
3. The property owner shall have a continuing obligation to maintain required Site improvements, Natural Features to be preserved, and Natural Features mitigation in a good condition.

**5.29.9 Rezoning****A. Purpose**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the City, the boundaries of any zoning district as shown on the zoning map<sup>440</sup> shall not be amended except to correct an error, because of a change in municipal policy, or because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions of that district.

**B. Zoning and Rezoning Initiation**

Subject to the limitations of Section 5.29.9A an amendment to the zoning map may be initiated by:

1. City Council by resolution.
2. The Planning Commission.
3. Application by property owner.

**C. Action of the Planning Commission**

1. The Planning Commission shall hold a public hearing pursuant to Section 5.28.3 on any proposed amendment to the zoning map. Notice of the public hearing shall be given in the same manner as provided in Section 5.28.2. The Planning Commission shall hold the public hearing before transmitting its report to City Council.
2. The Planning Commission shall cause a complete study of the application to be made by the Planning Manager and shall recommend to City Council such action as the Commission deems proper.

<sup>438</sup> Text from Sec. 5:132(3) and (5).

<sup>439</sup> Clarifying language added that the determination does not mean a Lot is buildable.

<sup>440</sup> The current text refers to an amendment to "this Chapter" but in practice that means an amendment to the zoning map (covered here) or to the text, which is covered two subsections later.

## D. Public Hearing by City Council

A public hearing shall be held by the City Council before adoption of any proposed amendment to the zoning map. Notice of the public hearing shall be given according to Section 5.28.2.

## E. Protesting a Proposed Rezoning<sup>441</sup>

### 1. Procedure

A protest against any proposed amendment to the zoning map may be presented in writing to the City Clerk prior to the final approval of the rezoning. The protest shall be duly signed by the owners of at least 20% of the area of land included in the proposed change excluding any publicly owned land<sup>442</sup>, or the owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change excluding any publicly owned land.

### 2. Effect

Following the filing of a valid protest application, adoption of an amendment to the zoning map shall require at least eight affirmative votes of City Council at the second reading on the ordinance.

## F. Procedure for Rezoning Applications<sup>443</sup>

### 1. Filing of Applications

All applications for amendments to the zoning map shall be on forms provided by the PDSU and shall be filed with the PDSU.<sup>444</sup>

### 2. Contents of Application

All applications for amendments to ~~this chapter~~ the zoning map shall contain at least the following:

- a. The Applicant's name, address, signature, and interest of every Person having a legal or an equitable interest in the land covered by the application.
- b. The nature and effect of the proposed amendment.
- c. ~~If the proposed amendment would require a change in the zoning map, a full dimensioned map showing:~~ An area plan as provided in Section 5.29.7 ~~5.29.9, or a site plan as provided in Section 5.29.6, except if the amendment is for a Single-Family or Two-Family Dwelling in a residential zone for which a fully-dimensioned map is required that includes the following: .
  - i) The land that would be affected by the proposed amendment.~~

<sup>441</sup> Revised to be consistent with MCL125.3403.

<sup>442</sup> Exclusion of public land has been added.

<sup>443</sup> Text from Sec. 5:108.

<sup>444</sup> Revised to simplify and match current practice.

- ii) A legal description of the land.
- iii) The present zoning classification of the land.
- iv) The zoning classification of all abutting zoning districts.
- v) ~~All public and private rights-of-way and easements bounding and intersecting the land under consideration.~~<sup>445</sup>
- d. ~~If the proposed amendment would require a change in the zoning map,~~  
~~€~~The names and addresses of the owners of all land within the area to be changed by the proposed amendment.
- e. The alleged error in the zoning map, if any, that would be corrected by the proposed amendment together with a detailed explanation of the alleged error in the zoning map, and detailed reasons as to how the proposed amendment will correct that error.
- f. The changed or changing conditions, if any, in the area or in the municipality generally, that make the proposed amendment reasonably necessary.
- g. All other circumstances, factors and reasons which Applicant offers in support of the proposed amendment.

#### 5.29.10 Planned Unit Development (PUD) Zoning District<sup>446</sup>

The City provides for PUD zoning for property owners to obtain more flexibility in Development than is provided by the City's standard base and overlay zoning districts, as described below.

##### A. Applicability

The provisions of this Section 5.29.10 shall apply to all PUD zoning districts:

##### B. Alternative Standards Permitted

The Planning Commission may recommend and City Council may approve, as Supplemental Regulations, modifications that increase, decrease, or eliminate the requirements in the areas listed below for equivalent land uses and intensities:

1. Use regulations, and area, height and placement regulations otherwise applicable to the property pursuant to this chapter, except that a modification allowing greater residential density may be approved only if the PUD zoning district proposed provides for Dwelling Units as Affordable Housing for Lower Income Households as specified in Section 5.29.10F.5
2. Off-street parking requirements in Section 5.19 .
3. Landscaping, screening, and buffering requirements in Section 5.20 .

##### C. The PUD Process<sup>447</sup>

The PUD process involves five consecutive steps: citizen participation, pre-application conference with staff, pre-petition conference with Planning

<sup>445</sup> Text from Sec. 5:121(1)(b).

<sup>446</sup> Text from Sec. 5:80, with changes as noted.

<sup>447</sup> This section includes edits from Ord. 08-29.



Commission, PUD zoning district review, and PUD site plan review. The pre-application conference occurs before the Applicant has submitted a formal application. zoning district and site plan reviews occur after the Applicant has submitted a formal application. The PUD site plan review may occur only if the PUD zoning district has been approved as required by this Section or the Planning Commission has approved an Applicant's request for PUD zoning district and PUD site plan approvals to be presented together at the same meeting per Section 5.29.10C.3 below.

### 1. Citizen Participation

Before submitting a PUD application for formal review, the ~~petitioner~~ Applicant shall comply with Section 5.28.4.

### 2. Pre-Application Conference with Staff

Before submitting a petition, the ~~petitioner~~ Applicant shall contact the Planning Manager to schedule a pre-petition conference. At the conference the ~~petitioner~~ Applicant shall present the proposed Conceptual PUD Plan and PUD Development Program. The staff may provide the Applicant with their comments regarding compliance with ordinance of the proposed land uses, the proposal's conformance with adopted Master Plan and policies.

### 3. Pre-Application Conference with Planning Commission

Before submitting a PUD application, the Applicant shall contact the Planning Manager to schedule a pre-application conference at a regularly scheduled meeting or a working session of the Planning Commission. At the conference, the Applicant shall present the proposed Conceptual PUD Plan and PUD Development Program. The Planning Commission and staff may provide the Applicant with their comments regarding the appropriateness of the proposed land uses, the proposal's conformance with adopted master plan and policies, and the beneficial effects to be achieved. The Planning Commission shall decide<sup>448</sup> whether or not a model may be required and whether Applicant's requests for zoning district approval and PUD site plan approval should be presented together at the same meeting or independently at separate meetings.<sup>449</sup>

### 4. PUD Zoning District Review

PUD zoning district review involves PDSU and Planning Commission review of the Conceptual PUD Plan, the PUD Development Program, and Supplemental Regulations to determine consistency with or the appropriateness for deviating from the City's adopted plans and policies and its suitability for inclusion in the land use and zoning plans of the City and adoption by City Council as part of the zoning ordinance. Once approved by the City Council, the property shall be zoned to a PUD zoning district, and use of the property shall be regulated by the Supplemental Regulations in the approved PUD and all other applicable code requirements.

<sup>448</sup> This is a change in procedure that formalizes Planning Commissions decision so that there is record of the requirement. Current code states that Planning Commission shall take no official action.

<sup>449</sup> References to fees were deleted because those are covered in 5:27.



### **5. PUD Site Plan Review**

Review and approval of a PUD site plan is required prior to the issuance of permits. If the PUD zoning district provides that a PUD may be developed in Phases, as shown on the Conceptual PUD Plan, approval of a PUD site plan for each Phase is required prior to the issuance of permits for that Phase. An approved PUD site plan shall become part of the record of approval. Subsequent actions relating to the activity authorized shall be consistent with the approved PUD site plan and any Development Agreement, including but not limited to the measures for protection and mitigation of Natural Features.<sup>450</sup>

### **D. PUD Zoning District Review Submittal Requirements**

The Applicant for any PUD zoning district shall submit a complete application together with the following materials:

1. The entire parcel or parcels for which application is made shall be under one ownership, or the application shall be made with the written authorization of all property owners who have a legal or equitable ownership interest in the property or properties. Application for a PUD zoning district may be made only by or with the written authorization of the owner(s) of the parcel(s) involved. All property that is proposed to be part of the Development shall be included in the PUD zoning district request.
2. A Conceptual PUD Plan containing the information required by Section 5.29.7 for area plans. The plan shall include but not be limited to area, height, and placement standards, the location and relationships of permitted land uses, parking and circulation systems, landscape features, preserved Natural Features, proposed phasing, and any other unique physical characteristics which warrant the PUD zoning.
3. A boundary survey and legal description of the parcel(s) to be zoned PUD.
4. A PUD Development Program describing the objectives, purposes, and beneficial effect for the City proposed to be achieved by the PUD zoning district, why this beneficial effect cannot be achieved under any other zoning designation, and its conformity to the adopted master plan and policies of the City or detailed compelling justification for departures from the plan and policies.
5. Proposed Supplemental Regulations for the PUD zoning district shall include, but not be limited to, permitted land uses; Accessory Uses; minimum and maximum standards of Lot Area and Lot Area per Dwelling Unit, if applicable; minimum Open Space as a percentage of Lot Area; Required Setbacks; height and number of stories. The Supplemental Regulations shall include sufficient analysis and justification for the beneficial effect and detailed performance standards by which the development will be evaluated and the beneficial effect achieved. Such analysis and justification may include, but are not limited to:
  - a. A comprehensive analysis of the surrounding neighborhood, providing such details as scale of Structures, minimum and maximum height and

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<sup>450</sup> The text of the last two sentences is from Sec. 5:132(2).

number of stories, minimum and maximum setbacks, historic or architectural styles or features, building materials and colors, and other unique features and a detailed analysis of how the PUD site plan and design contribute to the neighborhood.

- b. A comprehensive analysis of the unique features of the Site, including such components as topography, site orientation, circulation, or special condition and a detailed analysis of how the PUD site plan and design contribute to the preservation, protection, utilization, and enhancement of the Site's unique features.
6. Any additional visual materials, such as a three-dimensional study model<sup>451</sup>, a virtual model, graphics, photographs, or written materials requested by the Planning Manager, Planning Commission or City Council to assist the City in visualizing and understanding the proposal and assessing the possible benefits and impacts.
7. Materials supporting a request for additional residential density in accordance with Section 5.29.10F.5 if applicable.

#### **E. Procedure for PUD Zoning District Review**

A PUD zoning district is established as follows:

1. All required materials shall be filed with the Planning Manager. Copies of the materials will be distributed by the Planning Manager to the appropriate City service units and other reviewing agencies for review to determine the following:
  - a. If the Development can be accommodated by the existing Public Utility, street, and general City service facilities, or if any additions to, or extension of facilities are necessary for the project.
  - b. If the proposal meets the standards for PUD zoning district approval listed below.
  - c. If the Development will comply with all applicable local, state, or federal laws, ordinances, standards, and regulations or provides sufficient compelling justification for modifications of those local ordinances, standards or regulations as permitted for PUD.
  - d. If the proposal conforms to the adopted master plan and policies, or provides sufficient compelling justification for departure from the adopted plan and policies.
2. The Planning Manager will notify the Applicant of any questions raised by the City service units and other reviewing agencies and shall submit a report to the Planning Commission for its consideration including an evaluation of the planning aspects of the project and its impact on the present and future Development of the City.

<sup>451</sup> Removed specific requirement that Planning Commission request a 3D model at its preliminary review, and added it to the list of possible visual materials. Historically, a model has not been requested.

3. The Planning Commission shall hold a public hearing with notification as required by Sections 5.28.2 and 5.28.3.
4. The Planning Commission shall recommend to City Council action as it deems proper and shall transmit its recommendation together with any recommended conditions of approval and all related reports and minutes to City Council.
5. Before taking final action on the application, the City Council shall hold a public hearing with notification as required by Sections 5.28.2 and 5.28.3.
6. A protest of a proposed PUD zoning district may be presented as provided in Section 5.29.9E.
7. The Planning Manager shall keep a record of all approved PUD zoning districts and Supplemental Regulations. Notice of approvals shall be published as required by Section 5.29.9.

#### **F. Standards for PUD Zoning District Review**

The Planning Commission shall recommend approval, approval with conditions, or denial, and City Council shall approve or deny the proposed PUD zoning district based on the following standards:

1. The use(s), physical characteristics, design features, or amenities proposed shall have a beneficial effect for the City, in terms of public health, safety, welfare, aesthetics, or convenience, or any combination of those impacts, on present and potential surrounding land uses. The beneficial effects for the City that warrant the zoning include, but are not limited to, features such as:
  - a. Innovation in land use and variety in design, layout and type of Structures that furthers the stated design goals and physical character of adopted land use plans and policies.
  - b. Economy and efficiency of land use, natural resources, energy, and provision of public services and utilities.
  - c. Provision of Open Space.
  - d. Preservation and protection of Natural Features that exceeds the requirements of this chapter, especially for those features prioritized in this chapter as being of highest concern, or that preserves existing conditions instead of merely providing mitigation.
  - e. Employment and shopping opportunities particularly suited to the needs of the residents of the City.
  - f. Expansion of the supply of Affordable Housing for Lower Income Households.
  - g. The use and reuse of existing Sites and Buildings that contributes to the desired character and form of an established neighborhood.
2. This beneficial effect for the City shall be one that could not be achieved under any other zoning classification and shall be one that is not required to

be provided under any existing standard, regulation or ordinance of any local, state or federal agency.

3. The use or uses proposed shall not have a detrimental effect on public utilities or surrounding properties.
4. The use or uses proposed shall be consistent with the master plan and policies adopted by the City or the Applicant shall provide adequate justification for departures from the approved plans and policies.
5. If the proposed district allows residential uses, the residential density proposed shall be consistent with the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, unless additional density has been proposed in order to provide Affordable Housing for Lower Income Households in the following manner:
  - a. Proposed PUD projects exceeding the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, by up to 25% shall provide 10% of the total Dwelling Units as Affordable Housing for Lower Income Households. Proposed PUD projects exceeding the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, by over 25% shall provide 15% of the total Dwelling Units as Affordable Housing for Lower Income Households.
  - b. Affordable Housing for Lower Income Households shall be provided by the Development of units on-site, or payment of an affordable housing contribution in lieu of units consistent with the formula adopted by annual resolution of City Council, or by a combination of affordable housing Development and contributions.
  - c. When the affordable housing requirement results in a fractional unit, the fractional unit shall be converted to an affordable housing contribution in lieu of units, using the following formula: the fraction shall be multiplied by the per-unit PUD affordable housing contribution as determined by the formula adopted annually by City Council.
  - d. The Planning Commission shall recommend approval, approval with conditions, or denial, and City Council, in its sole discretion, may approve or deny payment of an affordable housing contribution in lieu of units.
  - e. Provisions to implement the affordable housing proposal shall be included in the PUD Supplemental Regulations or the Development Agreement, or both, as determined by the City.
6. The Supplemental Regulations shall include analysis and justification sufficient to determine what the purported benefit is, how the special benefit will be provided, and performance standards by which the special benefit will be evaluated.

7. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within and to the district shall be provided and, where feasible, the proposal shall encourage and support the use of alternative methods of transportation.
8. Disturbance of existing Natural Features, historical features and historically Significant Architectural features of the district shall be limited to the minimum necessary to allow a reasonable use of the land and the benefit to the community shall be substantially greater than any negative impacts.

#### **G. Effect of PUD Zoning District Approval**

1. Approval of the PUD zoning district by City Council shall rezone the property to a "PUD" zoning classification for the land uses, the area, height, and placement standards, and the objectives, purposes, beneficial effects, and special conditions provided in the PUD Development Program, the Conceptual PUD Plan, and Supplemental Regulations for the zoning district. In the case of differences between plans and written documents, written documents shall govern.
2. The approval shall confer upon the owner(s) or subsequent owner(s) the right to seek PUD site plan approval for the proposal or for any of its approved Phases in accordance with Section 5.29.10H, the approved PUD zoning district and Supplemental Regulations and City regulations and ordinances.
3. A PUD zoning district and its Supplemental Regulations shall remain in effect as approved until a change to the PUD zoning district has been approved.

#### **H. Planned Unit Development (PUD) Site Plan<sup>452</sup>**

##### **1. Requirement**

An approved PUD site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any Natural Feature for all planned unit developments.

##### **2. Procedure for PUD Site Plan Review**

- a. The Applicant for PUD site plan approval shall file with the Planning Manager all drawings and other materials required for site plans in Section 5.29.6; all drawings and other materials required in this chapter<sup>453</sup> for PUD zoning district approval; and the additional information listed below. A PUD site plan application shall not be considered technically complete and filed until all drawings and other required materials have been submitted and may be rejected if the

<sup>452</sup> Text from 5:123. Applicability section was deleted as unnecessary as all relevant dates have passed.

<sup>453</sup> The current reference is to Chapter 55, but the reference has been broadened to apply to all regulations in the UDC, which is more accurate in the new code Structure.

materials submitted are inadequate to make the foregoing determinations.<sup>454</sup>

- b. The Applicant for a PUD site plan approval shall file a Development Agreement as described in Section 5.28.6.<sup>455</sup>
- c. Before submitting a site plan application for formal review, the ~~petitioner~~ Applicant shall comply with the requirements for citizen participation in Section 5.28.4.
- d. Before submitting a petition, the ~~petitioner~~ Applicant shall contact the Planning Manager to schedule a pre-petition conference. At the conference the ~~petitioner~~ Applicant shall present the proposed PUD site plan and PUD Development Program. The staff may provide the Applicant with their comments regarding compliance with required site plan information, the appropriate approving body ordinance of the proposed land uses, and the proposal's conformance with adopted Master Plan and polieiestype of citizen participation required.
- e. If requested by the Planning Commission or City Council, additional graphics, models, three-dimensional or electronic, or written materials shall be submitted to assist the City in visualizing and understanding the proposal. Additional detailed information including but not limited to plans, elevations, Building and Site sections, or existing and proposed building materials, if submitted, shall become a part of the PUD site plan.
- f. The Planning Manager will distribute these materials to the appropriate City departments and other reviewing agencies for review and comment regarding compliance with the PUD zoning district Supplemental Regulations and Conceptual PUD Plan, and compliance with all applicable local, state, or federal laws, ordinances, standards and regulations and to determine the need for a Development Agreement as provided in this chapter. The Planning Manager will notify the Applicant of any questions raised by the City departments and other reviewing agencies and negotiate a Development Agreement with the Applicant if it is determined that such an agreement is needed. The Planning Manager shall submit a report and recommendation to the Planning Commission based on this review.
- g. The Planning Commission, after holding a public hearing on the PUD site plan with notification as required by Sections 5.28.2 and 5.28.3,<sup>456</sup> shall transmit its recommendation based on the standards below, together with any recommended conditions of approval and all related reports and minutes to City Council.

<sup>454</sup> Subsections (a) and (b) are from Ord 08-29. Requirement for technical completeness added to reflect current practice.

<sup>455</sup> Codifies current practice.

<sup>456</sup> The current reference is to "This Chapter" but other PUD notice provisions cross-reference the notice required for rezonings, so that section is referenced. The same applies to the next subsection on Council hearings.



### 3. Standards for PUD Site Plan Review

City Council, after holding a public hearing on the PUD site plan with notification as required by Sections 5.28.2 and 5.28.3, and after receiving all related reports and minutes and a recommendation from the Planning Commission, shall approve, approve with conditions, or deny a PUD site plan. A PUD site plan shall be approved by City Council only after it determines that:

- a. The Development would comply with the PUD zoning established pursuant to the requirements of this chapter<sup>457</sup>, and with all applicable local, state, or federal laws, ordinances, standards and regulations.
- b. The Development would limit the disturbance of Natural Features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a Natural Features Plan as provided in Section 5.29.6G.<sup>458</sup>
- c. The Development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.

### 4. Effect of PUD Site Plan Approval

For three years from the date of approval of a PUD site plan, permits may be issued and the land developed consistent with the PUD site plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances have been made applicable to previously approved Developments. After three years from PUD site plan approval, no permits shall be issued unless the PUD site plan is reconsidered in the manner provided for new PUD site plans and is determined to meet the standards of the PUD zoning district or has been extended as provided in 5.30.4A.<sup>459</sup>

## 5.29.11 Appeals to the ZBA<sup>460</sup>

### A. General Appeals Procedure<sup>461</sup>

1. Appeals shall be commenced by a Person aggrieved by a decision filing a notice of appeal with the body or official from whom the appeal is taken and with the ZBA on a form supplied by the Planning Manager. The notice of appeal shall specify the particular grounds upon which the appeal is based, and shall be ~~Signed~~ signed by the appellant. In order to be aggrieved by a decision<sup>462</sup>, the Person must have a property interest recognized under law, and sufficient standing as recognized under law to challenge the decision.<sup>463</sup>

<sup>457</sup> The current reference is to Chapter 55.

<sup>458</sup> Reference to Natural Features Statement of Impact has been changed to Natural Features Plan.

<sup>459</sup> This cross-reference is being checked for accuracy.

<sup>460</sup> This section collects all materials related to amendments and modifications located in various sections of the previous draft. All references to a "Sign appeal procedure" have been deleted from the code because the ZBA will hear all Sign appeals.

<sup>461</sup> Revised to include additional requirements of MCL 125.3604.

<sup>462</sup> Clarification of aggrieved and standing added consistent with state law.

<sup>463</sup> Current text addressing variance topics moved to Variance section.



2. Appeals shall be filed within 60 days of the date of the decision in question.
3. The body or official from whom the appeal is taken shall immediately transmit to the ZBA all of the papers constituting the record upon which the action appealed from was taken for their next regularly scheduled meeting.<sup>464</sup>
4. An appeal to the ZBA stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the ZBA after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the ZBA or circuit court.<sup>465</sup>
5. The ZBA shall hold a public hearing pursuant to Section 5.38.3 on all applications before taking action on the application. Notice of the public hearing shall be made as set forth in Section 5.28.2B. However, if the request does not involve a specific parcel of property, notice need only be published as provided in Section 5.28.2A and given to the Person making the request.<sup>466</sup>
6. Any Person shall be accorded the right to appear in Person or be represented by a duly authorized agent or attorney.<sup>467</sup>
7. The ZBA shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:
  - a. The relevant Administrative records and the Administrative orders issued on those records relating to the appeal.
  - b. The notice of appeal.
  - c. Those documents, exhibits, photographs, or written records as may be submitted to the Board for its consideration.
  - d. Minutes of meetings.
8. The ZBA may reverse or affirm in whole or in part, or modify the order, requirement, decision or determination and may direct the issuance of a permit.
9. The concurring vote of a majority of the members of the ZBA is necessary to reverse an order, requirement, decision, or determination of an administrative official or body.<sup>468</sup>
10. The ZBA shall state the grounds of any determination made by the board.<sup>469</sup>
11. The requisite written findings of fact, the conditions attached and the decisions and orders by the ZBA in disposing of the appeal shall be entered into the official record after they have been ~~Signed~~signed by the Chair of the

<sup>464</sup> Reference to next regularly scheduled meeting added to reflect current practice.

<sup>465</sup> Provision added to reflect current practice.

<sup>466</sup> Second sentence added to address situation where mailed notice is not possible.

<sup>467</sup> Reference to attorney added to reflect current practice.

<sup>468</sup> New provision to reflect current practice.

<sup>469</sup> New provision to reflect current practice and state law requirements.

ZBA and after written notice of the disposition of the appeal has been served, either in Person or by mail, upon the parties to the appeal, the Planning Manager, and the City Clerk. The record of the proceedings shall be filed in the office of the City Clerk. The Chair shall, within ten days after the date the ZBA has reached its final decision on an appeal, sign the necessary orders to effectuate the decision of the ZBA.<sup>470</sup>

### **B. Land Division Appeal Procedure<sup>471</sup>**

In the case of an appeal of a decision of the Planning Manager regarding an application for land division:

1. The appeal shall be decided by the Planning Commission following a public hearing.
2. The appeal must be filed within 30 days after the decision of the Planning Manager or the appeal shall not be accepted by the City.
3. A written notice shall be sent to the Applicant and to the property owners and residents within 300 feet of the boundary of the property not less than ten days before the Planning Commission hearing indicating the time, date and location of the hearing.
4. A notice of the hearing shall be provided in accordance with Section 5.28.2A.
5. The Planning Commission shall hold its hearing at its first regular meeting for which these notice requirements may be met.
6. The decision of the Planning Commission shall not create parcels that would not be permitted under the provisions of the zoning district in which the parcel is located and shall not create parcels that would not be permitted under the State Land Division Act.<sup>472</sup>

### **5.29.12 Variance<sup>473</sup>**

#### **A. Application<sup>474</sup>**

1. An application for a variance from the standards of this chapter shall be filed with the Zoning Board of Appeals (ZBA) on a form provided by the Planning Manager. The application shall specify the requirements from which a variance is sought and the nature and extent of such variance.
2. The ZBA shall have the authority to grant nonuse variances relating to the construction, structural changes, or Alteration of Buildings or Structures related to dimensional requirement of the zoning ordinance or to any other nonuse-related standard in the ordinance.
3. The ZBA does not have the authority to grant use variances.

<sup>470</sup> Sentence on filing record with City Clerk added to reflect current practice.

<sup>471</sup> Text is from Sec. 5:125(2)(e).

<sup>472</sup> Materials on appeal fees have not been carried over, since they are repetitive of materials in section 5:27.3.

<sup>473</sup> Text from Sec. 5:99. This section consolidates all of the various variance procedures scattered throughout the chapter being integrated into the UDC. Subsections 1 and 2 are new text to reflect current procedures.

<sup>474</sup> Section has been updated to be consistent with legal requirements of MCL 125.3604. Subsections 2 and 3 added to clarify authority.

## B. Public Hearing and Decision

The ZBA shall hold a public hearing on the application for a variance pursuant to Section 5.28.3 Notice of the public hearing shall be provided consistent with Section 5.28.2<sup>475</sup>

1. Any Person shall be accorded the right to appear in Person or be represented by a duly authorized agent or attorney.<sup>476</sup>
2. The ZBA shall approve (with or without conditions) or deny the application after applying all of the criteria in Sections 5.29.12C and 5.29.12D as applicable.
3. The concurring vote of a majority of the members of the ZBA is necessary to grant a variance in the zoning ordinance.<sup>477</sup>
4. The requisite written findings of fact, the conditions attached and the decisions and orders by the ZBA in granting or denying the variance shall be entered into the official record after they have been Signed by the Chair of the ZBA and after written notice of the disposition of the variance has been served, either in Person or by mail, upon the parties to the appeal, the Planning Manager, and the City Clerk. The record of the proceedings shall be filed in the office of the City Clerk. The Chair shall, within ten days after the date the ZBA has reached its final decision on a variance, Sign the necessary orders to effectuate the decision of the ZBA.<sup>478</sup>

## C. General Criteria

A variance may be allowed by the ZBA only in cases involving practical difficulties<sup>479</sup> after the ZBA makes an affirmative finding that each of these criteria are met:

1. That the alleged practical difficulties are exceptional and peculiar to the property of the Person requesting the variance, and result from conditions that do not exist generally throughout the City.
2. That the alleged practical difficulties that will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.
3. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter<sup>480</sup>, the practical difficulties that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.
4. That the conditions and circumstances on which the variance request is based are not a self-imposed practical difficulty.

<sup>475</sup> Reference to revised general public notice section.

<sup>476</sup> Reference to attorney added to reflect current practice.

<sup>477</sup> Provision added to clarify current practice.

<sup>478</sup> Sentence on filing record with City Clerk added to reflect current practice. This section is now consistent with the Appeal Procedure section.

<sup>479</sup> MCL 125.3604 has clarified that the term "unnecessary hardship now only applies to use variances which the ZBA does not grant.

<sup>480</sup> This reference was originally to Chapter 55, but it now refers to the entire UDC.

5. The variance to be approved is the minimum variance that will make possible a reasonable use of the land or Structure.

#### **D. Alternative Criteria for Specific Types of Variances<sup>481</sup>**

Variances to the following types of standards shall require that the ZBA make an affirmative finding that the application meets the specific criteria listed below that are applicable to that type of variance application.

##### **1. Dish Antennas<sup>482</sup>**

In the case of an application for a variance from the Dish Antenna standards of Section 5.16.6A.3, the topographic features or special characteristics of the Site create special conditions such that the strict application of those standards will prevent the reception of usable satellite Signals.

##### **2. Storm Water Management**

In the case of an application for variance from the storm water management standards in Section 5.22, that Storm Water Management Systems have been provided to the maximum extent feasible with the goals of meeting the Rules of the WCWRC related to storm water management.

##### **3. Wireless Communications Antennas**

A variance may be granted from the height limits found in Section 5.16.5D only to the minimum extent demonstrated as necessary to comply with operational needs and applicable federal regulations.

##### **4. Wetlands<sup>483</sup>**

In the case of an application for a variance from the Wetlands protection standards of Section 5.23.9~~5.29~~, evidence supports at least one of the following affirmative findings:

- a. The general variance criteria in Section 5.29.12C have been met.
- b. The public benefit intended to be served by the standards in Section 5.23.9 will be retained, despite more disruption of the Wetland than permitted by those standards.
- c. The topographical features or special characteristics of the Site create conditions such that strict application of the standards in Section 5.23.9 will result in less protection of the Wetland.
- d. The application of the standards in Section 5.23.9 would deny all reasonable use of the property.

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<sup>481</sup> ~~Separate standards for off-street parking and landscaping variances were deleted because they were substantially identical to general variance criteria.~~

<sup>482</sup> Text from Sec. 5:81(7).

<sup>483</sup> Text from second part of Sec. 5:220(1) and all of (2).

### **5. Signs<sup>484</sup>**

For a Building or property that is designated as historic by Federal, State, or local government, the Zoning Board of Appeals may consider it to be a hardship or practical difficulty and may grant a variance if the Historic District Commission has made a determination that a proposed Sign is necessary and integral to the historic character of a property.

### **6. Parking Standards**

In the case of an application for a variance from the parking requirements of Section 5.19, a variance may be granted if the variance is in harmony with the general purpose and intent of the requirements.

### **7. Landscaping, Screening and Buffering**

In the case of an application for a variance from the landscaping, screening and buffering requirements of Section 5.20, a variance may be granted from the strict application of that section when the evidence supports that the public benefit intended to be secured will exist with less than the required landscaping or screening.

### **E. Rehearing**

An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be denied by the ZBA if the Applicant is unable to present evidence to show that there has been a substantial change in facts, circumstances, or scope or nature of relief requested.

### **F. Lapsing**

The ZBA may, upon review and public hearing, and unless good cause can be shown, declare an approved variance null and void if:

1. Construction authorized by the variance has not been commenced within one year after the date of approval; or has not been pursued diligently to completion.
2. Occupancy of land or Buildings authorized by the variance has not commenced within one year after approval.

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<sup>484</sup> Text added per ORD-12-32.

## 5.30 Amendments and Modifications

### 5.30.1 Planned Project Site Plan Modification<sup>485</sup>

#### A. Purpose

The intent of this Section 5.30.1 is to provide an added degree of flexibility in the placement, design, and interrelationship of the Buildings within a site planned Development and to provide for Permanent Open Space preservation as part of a site planned Development without the need for a PUD rezoning.<sup>486</sup> Modifications of the area, height, placement, and design requirements, and Lot sizes, otherwise required by this chapter, may be permitted if the planned project would result in the preservation of Natural Features, greater minimum Open Space, greater Setback Lines, energy conserving design, preservation of historic or architectural features, higher quality design, expansion of the supply of Affordable Housing for Lower Income Households or a beneficial arrangement of Buildings. A planned project shall maintain the permitted uses and requirements for maximum density, maximum Floor Area Ratio and minimum Open Space specified in this chapter for the zoning district(s) in which the proposed planned project is located.

#### B. Submittal Requirements

The Applicant for a planned project shall submit the following materials in addition to the site plan application:

1. An application identifying the specific sections of this chapter to be modified, as well as explaining how the modifications will help achieve the objectives of the development program and the standards described below.
2. When a planned project modification seeks to permanently preserve Open Space by utilizing reduced Lot size, the Applicant shall provide an alternative concept site plan of the property, drawn to scale. The alternative concept site plan shall illustrate the maximum number of Lots that could reasonably be achieved without application of the reduced Lot size, taking into account the application of all ordinances, laws, and regulations, including; but not limited to; road rights-of-way, parking, access and provision of utilities, and storm water management, Soil Erosion and Sedimentation Control Facilities.

#### C. Standards for Approval<sup>487</sup>

1. Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height, and placement, and design regulations of the zoning chapter in the form of a planned project site plan:
  - a. The Lot or Lots included in the planned project meets the minimum Lot size requirement of the zoning district in which they are located. In residential zoning districts, the minimum Lot size shall be the combined

<sup>485</sup> Text starts at current Sec. 5:68 *Planned Projects*. Includes minor wording changes from ORD-17-14.

<sup>486</sup> The last clause has been added to distinguish planned projects from PUDs.

<sup>487</sup> Includes minor wording changes from ORD-17-14.



total of the minimum Lot sizes for each dwelling on a parcel. However, the following exceptions may apply.

- i) For purposes of this section, zero Lot Line duplex or townhouse development shall mean a development containing attached ~~single~~Single-Family Dwelling Units on individual Lots. If a planned project for a zero Lot Line duplex or Townhouse development provides Affordable Housing for Lower Income Households, the minimum Lot size and width requirements may be reduced. The number of Dwelling Units permitted shall not exceed the maximum permitted density in the zoning district in which the proposed Development is located.
  - ii) In any residential zoning district allowing three or fewer Dwelling Units per acre, when 20% or more of the total area of a Development is set aside for Permanent Open Space preservation, the gross Lot size may be reduced below the minimum Lot Area per Dwelling Unit and width requirements for the zoning district in which it is located, as provided in this Section 5.30.1.
- b. The proposed modifications of dimensional standards provides one or more of the following:
- i) Open Space in excess of the minimum requirement for the zoning district. Where no minimum Open Space standard is required by the zoning district, a minimum Open Space standard shall be established by the approval of the planned project.
  - ii) Required Setback Lines or parking setback(s) in excess of the minimum requirement for the zoning district. Where no minimum Required Setback Lines or parking setback is required by the zoning district, a minimum setback standard shall be established by approval of the planned project.
  - iii) Preservation of Natural Features that exceeds the requirements of this chapter, especially for those existing features prioritized in this chapter as being of highest and mid-level concern.
  - iv) Preservation of historical or Architectural features.
  - v) Solar orientation or energy conserving design.
  - vi) An arrangement of Buildings that provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or Impervious Surface.
  - vii) Affordable Housing for Lower Income Households.
  - viii) A recorded conservation easement or similar binding instrument providing for Permanent Open Space of 20% or more of the planned project, in any residential zoning district allowing three or fewer Dwelling Units per acre.
  - ix) In the D1 and D2 zoning districts, Building placement, architectural design or use of building materials that maximizes the extent that a Building satisfies the Downtown Design Guidelines that could not



be achieved in strict conformity with the design requirements of Section 5.17.6C.

- c. The planned project is designed in such a manner that traffic to and from the Site will not be Hazardous to adjacent properties.
- d. The proposed modifications are consistent with the proper Development and use of adjacent land and Buildings.
- e. Required off-street parking and landscaping shall be provided in accordance with the provisions of Sections 5.19 and 5.20 .
- f. The standards of density, maximum permitted Floor Area Ratio and required Open Space for the zoning district(s) in which the project is located shall be met.
- g. There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.
- h. In any residential zoning district allowing three or fewer Dwelling Units per acre and where 20% or more of the Site is proposed for Permanent Open Space, projects shall meet the following standards:
  - i) The minimum Lot size of the parcel proposed for the planned project shall be two acres. The size and shape of the portions of the planned project designated for Permanent Open Space preservation shall be reviewed and approved in conjunction with a planned project site plan, or a plat, in relation to Natural Features or characteristics specific to that Site.
  - ii) The area of each residential building lot or limited common area of a condominium development shall be 10,000 square feet or greater, exclusive of the Permanent Open Space. Minimum Lot Width and Required Setback shall meet or exceed standards of the R1B residential zoning district.
  - iii) Permanent Open Space area shall be in, and shall continue to be in, an undeveloped, natural state preserving and conserving natural resources, Natural Features, scenic or wooded condition, or naturally occurring water surfaces. It may also provide an undeveloped greenway of contiguous or linear Open Space that includes habitats or corridors for wildlife, or links parks, nature reserves, cultural features or historic sites with each other for passive recreation or for conservation purposes.<sup>488</sup>
  - iv) Land in Permanent Open Space may be, but is not required to be, dedicated to the use of the public.
  - v) Prior to the issuance of any permit, the Permanent Open Space shall be protected by a recorded conservation easement or similar binding

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<sup>488</sup> Reference to conservation purposes has been added to reflect current practice.

instrument containing provisions for ownership and ongoing maintenance of the Permanent Open Space by a responsible party such as, but not limited to, a homeowner's association, an independent agency or trust established for such purposes, or a municipality for Open Space preservation. Such Permanent Open Space shall constitute 20% or more of the total area of a Development.

- vi) The option of utilizing a conservation easement or plat dedication for Open Space preservation for not less than 20% of the total area may be exercised only one time on a parcel of land.
- vii) The site plan meets the criteria for approval of site plans in Section 5.29.6D<sup>489</sup>

~~2.1. The Planning Commission or City Council may add conditions to the approval of the planned project to achieve conformity to these standards.~~

#### D. Approval Procedure<sup>490</sup>

##### 1. Preliminary Procedures.

a. Before submitting a planned project application for formal review, the Applicant shall comply with citizen participation requirements provided in Section 5.28.4.

b. Before submitting a petition, the Applicant shall contact the Planning Manager to schedule a pre-petition conference. At the conference the ~~petitioner~~ Applicant shall present the proposed site plan and development program. The staff may provide the Applicant with their comments regarding compliance with ordinance of the proposed land uses, and the proposal's conformance with adopted Master Plan and policies.

c. The planned project application, site plan and other required materials shall be filed with the Planning Manager. The Planning Manager shall review the materials filed and, after conferring with the Applicant and appropriate City service areas, shall submit a report and recommendation to the Planning Commission.

2. Planning Commission Recommendation. The Planning Commission shall hold a public hearing and, within a reasonable time following the close of the public hearing, the Planning Commission shall make a recommendation to the City Council to approve or deny the planned project.<sup>491</sup> ~~The Planning Commission or City Council may add conditions to the approval to achieve conformity to the planned project approval standards.~~

##### 3. City Council Approval.

a. Upon receipt of the Planning Commission's recommendation, the City Council shall approve or ~~reject~~ deny the planned project within a

<sup>489</sup> New provision to reflect current practice.

<sup>490</sup> Includes amendments from Ord. 10-23.

<sup>491</sup> Includes amendments from Ord 08-29.

reasonable time following the close of the public hearing. City Council may add conditions to the approval to achieve conformity to the planned project approval standards.

e.b. Approval of a planned project by City Council shall state the modifications of the zoning ordinance and any specific conditions. Such modifications become part of the approved planned project and site plan and allow the location of improvements on the Site according to the plan.

#### 4. Effect of Planned Project Approval.

d.a. The approval of the application by the City Council shall allow the PDSU Manager to issue a zoning permit in conformity with the application as approved. This permit shall specify the exact modifications to the provisions of this chapter that have been approved for this planned project. The holder of this zoning permit may then proceed with the project in conformity with other code requirements.

e.b. For three years from the date of approval of the planned project, permits may be issued and the land developed consistent with the planned project plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances are made applicable to previously approved planned project plans. After three years from approval, a building permit shall not be issued unless the planned project is reconsidered by the Planning Commission and City Council in the manner provided for new planned projects.

### **5.30.2 Landscape Modifications<sup>492</sup>**

Flexibility in the application of the landscaping or screening requirements of Sections 5.20.3, 5.20.4, 5.20.5, 5.20.6, or 5.20.7 may be allowed as provided in this section.

#### A. Standards for Approval.

~~if each~~ A modification may be allowed if each of the following conditions are met:~~are met:~~

1. The modifications are consistent with the purposes stated in Section 5.20.1

~~B. The modifications are included on a site plan and in a motion approved by Planning Commission or City Council.~~

1.2. The modifications are associated with one or more of the following Site conditions:

a. The Site is located in a special parking district as designated in Section 5.19.3

<sup>492</sup> Current Sec. 5:608(1) was deleted because it is neither enforceable nor used, thus only Sec. 5:608(2) was carried forward as the landscaping modification procedure.

- b. Strict application of this chapter will result in a loss of existing Parking Spaces required by Sections 5.19.2 or 5.19.3 and the Site does not abut residential uses.
- c. The topographic features of the Site create conditions so that the strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs.
- d. Existing vegetation and landscaping are located or spaced in such a manner that the addition of required landscaping would be detrimental to the plant material or create undesirable conditions.
- e. The use of Bioretention areas, Native or Prairie Plantings, structural amenities or Xeriscaping would prevent strict application of this chapter.
- f. In the case of planned projects or planned unit developments, a rearrangement of the landscaping elements will achieve the spirit and intent of this chapter.
- g. Landscape elements which are a part of a previously approved site plan may be maintained and continued as nonconforming provided no Alterations of the existing landscape elements are proposed.

3. The Applicant provides a statement of justification identifying which Site conditions warrant the requested modification and how the modification meets the intent of the ordinance as provided in this section.

**B. Approval Procedures.** The modifications shall be specifically approved by a motion by the Planning Commission or City Council, depending on which is the approving body<sup>493</sup>.

### **5.30.3 Alternative Natural Features Mitigation<sup>494</sup>**

**A. Alternative Natural Features Mitigation.** Alternative mitigation measures for not more than 50% of the required mitigation may be allowed by the approving body if each of the following conditions are met. The alternative mitigation

<sup>493</sup> Revised for consistency with other modifications.

<sup>494</sup> Text from 5:127(4) and (5).

shall be specifically approved by a motion of the Planning Commission or City Council, depending on which is the approving body:

1. The alternative mitigation is consistent with Section 5.23

~~The alternative mitigation is specifically approved by the Planning Commission or City Council, depending on which is the approving body.~~

2. The alternative mitigation provides an overall ecological value to the Site or the City that is at least as beneficial as the required mitigation.

3. The alternative mitigation meets one of the following standards:

a. It is a restoration or management of an important Natural Feature on the Site or public land in the vicinity.

b. It provides funds for the management and restoration of important Natural Features or public lands in the vicinity.

c. It dedicates important natural areas to the City park system.

d. It provides funds to the City street tree planting program.

**B. Relief from Natural Features Mitigation.** Where providing Natural Features mitigation required in Section 5.23 ~~or alternative mitigation~~ will cause undue hardship, and the conditions for approval of alternative Natural Features mitigation provided in Section 5.30.3A cannot be met<sup>495</sup>, the Applicant may request relief from the approving body as part of the site plan or plat approval. Any such relief must be specifically approved by the Planning Commission or City Council, depending on which is the approving body. Relief will be granted only when the Applicant provides evidence supporting all of the following findings:

1. The hardship is exceptional and peculiar to the site and results from conditions which do not exist generally throughout the City.

2. The condition upon which the requested relief is based is not a self-imposed hardship.

3. The relief proposed is the minimum amount necessary to make a reasonable use of the land.

### ~~5.30.35.30.4~~ **5.30.4 Amendments to Development Approvals**

#### **A. Approved PUD Site Plans<sup>496</sup>**

A minor change to an approved PUD site plan may be approved as provided in Subsection 5.29.6B.3~~5.30.4~~, except that the proposed changes shall not alter the fundamental design, conceptual integrity, Natural Features shown to be preserved,

<sup>495</sup> Revised and clarified to reflect current practice.

<sup>496</sup> Text from Sec. 5:123(6) *Site Plans*.

any specific conditions of the PUD Development Program, the Conceptual PUD Plan or the Supplemental Regulations. The following restrictions shall also apply:

1. Adjustment in approved Phase lines shall not result in a change greater than 10% of the total gross land area in any Phase, or 10% of the number of approved Lots, or 10% of the approved maximum Building square footage.
2. Any decrease in Building size or changes in bedroom counts per Dwelling Unit shall not reduce the size or number of affordable housing units approved as part of the PUD site plan.

**B. Approved Planned Project<sup>497</sup>**

1. A planned project may be amended as provided in this Section 5.30.4B as long as those design elements that were identified in the development program as justification for approval of the planned project<sup>498</sup> are not reduced or eliminated.
2. Minor changes to a previously approved planned project may be approved as provided for ~~administrative amendments to site plans~~ for administrative approval (Section ~~5.29.6B.3-5.30.15.29.6.B.9~~), except that:
  - a. The proposed changes shall not alter the basic design or any specific conditions or expressly prohibited amendments of the plan as approved by City Council.
  - b. The recorded conservation easement or binding legal instrument providing for Permanent Open Space preservation shall not be extinguished. The Planning Manager shall record all such amendments on the original planned project site plan.
  - c. Relocation of landscaping or changes in species of landscape materials shall not reduce minimum landscape requirements or violate prohibited activities under a recorded conservation easement or binding legal instrument for Permanent Open Space preservation.
  - d. Any recreation or maintenance facilities shall not violate the activities prohibited under a recorded conservation easement or binding legal instrument for Permanent Open Space preservation.
3. Planning Commission review and City Council approval is required to divide a planned project parcel that is not already regulated by the Subdivision Control Act of 1967, as amended. The City Council shall approve the division only if it determines that the resulting parcel(s) will comply with all applicable laws and will not affect the objectives of the planned project as originally approved. If Permanent Open Space preservation was provided by the planned project approval, the following shall also apply:

<sup>497</sup> Text from Sec. 5:72 *Planned Projects*.

<sup>498</sup> The current text reads “justification for the approval of modifications of the zoning chapter”.



- a. The same or a substantially similar request shall not have been presented to the City Council previously and expressly denied and rejected after public hearing.
- b. The option of utilizing a conservation easement, plat dedication or other binding instrument for Permanent Open Space preservation of 20% or greater of the total area shall be exercised no more than one time on a parcel of land.

### C. Approved Special Exceptions<sup>499</sup>

Modification of a Special Exception Use shall be permitted as provided in this Section 5.30.4C, except as otherwise provided by this chapter.<sup>500</sup>

1. A Site may be modified per the requirements of this chapter for site plan for Planning Commission approval or ~~Administrative~~ administrative amendment approval.
2. For those uses that have previously received Special Exception Use approval, an amended Special Exception Use application and a revised site plan shall be required. The amended application and revised site plan shall be reviewed in conjunction with the previously approved Special Exception Use and site plan to determine the aggregate impact of the proposed changes in conjunction with the existing use. The Planning Commission, upon review of the new or amended Special Exception Use application, may then:
  - a. Approve the new Special Exception Use or amend the previously-approved Special Exception Use.
  - b. Amend the previously-approved Special Exception Use and impose additional conditions to assure continued compatibility.
  - c. Deny the new Special Exception Use and site plan or the previously-approved Special Exception Use and revised site plan. Denial of the request does not change the status of the previously approved Special Exception Use or site plan.
3. If the nature of a requested modification to a Special Exception Use requires a site plan for City Council approval, per the requirements of this chapter, the Planning Commission shall require a Special Exception Use application and a site plan for those Special Exception Uses that have not previously received Special Exception Use approval.<sup>501</sup>

### D. Approved Grading Plans<sup>502</sup>

All modifications of the approved Grading plans shall be submitted to and approved by the Planning Manager. All necessary reports shall be submitted with any proposal to modify the approved Grading plan. No Grading work in connection with

<sup>499</sup> Text from Sec. 5:104(7) *Special Exceptions*.

<sup>500</sup> The current reference is "except as otherwise provided by this ordinance".

<sup>501</sup> Relocated here from special exception procedures.

<sup>502</sup> Text from Sec. 5:665 *Grading*.

any proposed modification shall be permitted without the approval of the Planning Manager.

### ~~5.30.45~~ **5.30.5 Changes to a PUD Zoning District**

A change to a PUD zoning district may be accomplished by amending the PUD zoning district by the process provided for establishment of a PUD zoning district in Section 5.29.10 or by rezoning to a different zoning district pursuant to the procedures in Section 5.29.9.

### ~~5.30.55~~ **5.30.6 Chapter Text Amendment**

#### **A. Comprehensive Review of Chapter<sup>503</sup>**

The Planning Commission shall from time to time examine the provisions of this chapter and the location of zoning district boundary lines and shall submit a report to City Council recommending changes and amendments, if any, that are deemed to be desirable in the interest of public health, safety and general welfare.<sup>504</sup>

#### **B. Procedure**

1. The text of this chapter may be amended by the same procedure used for a rezoning of land, as described in Section 5.29.9, except that only notice pursuant to Section 5.28.2A shall be required, ~~and that only the Planning Commission, not individual residents, may initiate a text amendment<sup>505</sup>.~~ Notices pursuant to Sections 5.28.2B and 5.28.2C shall not be required.
2. Applications for amendments to this chapter shall be on forms provided by the PSDU, shall be filed with the PSDU, and shall contain at least the following<sup>506</sup>:
  - a. Applicant's name, address, signature, and interest in the amendment.
  - b. The section or sections proposed to be amended and the proposed text.
  - c. The nature and effect of the proposed amendment.
  - d. The reason for the proposed amendment, including a detailed explanation if there is an alleged error, the changed or changing conditions that make the proposed amendment reasonably necessary, and any other circumstances, factors and reasons to support the proposed amendment.

#### **C. Criteria for Approval**

The Planning Commission may recommend approval of a change to the text of this chapter (with or without modifications), and City Council may approval a change to

<sup>503</sup> Text from Sec. 5:109 *Amendments*. Subsections B and C are new to reflect current City practice.

<sup>504</sup> Language stating that Planning Commission shall review chapter every three years has been revised for flexibility and to reflect current practice.

<sup>505</sup> Deleted for consistency with current practice.

<sup>506</sup> Text adapted from 5:108 made specific to chapter text amendments.

the text of this chapter (with or without modifications), if it finds that the proposed change:

1. Would promote the health, safety, and general welfare of the citizens of the City.
2. Is consistent with the adopted plans of the City.
3. Is consistent with all applicable state and federal law.<sup>507</sup>

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<sup>507</sup> Added to ensure full consideration of all applicable regulatory requirements.

## Article VI: Nonconformities<sup>508</sup>

### 5.31 Purpose Statement

It is the intent of this Article VI to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or Structures that are not in conformity with the provisions of this chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this chapter. It is also the intent of this Article VI that any elimination of Nonconforming Uses or Nonconforming Structures shall be effected so as to avoid any unreasonable invasion of established private property rights.

### 5.32 General Standards

#### 5.32.1 Nonconforming Use

A Nonconforming Use may be continued and shall be maintained in good condition, but it shall not be:

- A. Changed to another non-conforming use, except, after approval of the Zoning Board of Appeals. When granting such approval, the Zoning Board of Appeals shall determine that such change in use will have a less detrimental effect on neighboring property than the existing non-conforming use.<sup>509</sup>
- B. Structurally altered so as to prolong the life of the Building.
- C. Expanded or increased in intensity of use (for example, such as by the addition of one or more Dwelling Units, by providing additional Manufacturing or selling area, or the addition of facilities that would allow the establishment of another use or other uses).
- D. Re-established after discontinuance for a period of at least one year.
- E. Re-established in cases of residential usage in any "R" dwelling district after damage or destruction of the Building or Structure devoted to such non-conforming use if the estimated expense of reconstruction exceeds 70% of the appraised replacement cost (as determined by the Building Official) of the entire Building or Structure exclusive of foundations, prior to its damage or destruction. In cases of other than residential usage in any "R" dwelling district, the limitation on the expense of reconstruction shall be 50% of such appraised replacement cost.
- F. Re-established in any zoning district other than an "R" dwelling district except under the same provisions as in Subsection A.5 above, providing that the limitation on the expense of reconstruction shall be 70% rather than 50% of the appraised replacement cost (as determined by the Building Official) of the entire

<sup>508</sup> Most of the text for this Chapter is taken from Article VII Nonconformities with additional, specific provisions from other sections of the code as indicated. References to appeals have not been carried over because they are covered in 5:27.

<sup>509</sup> Language modified to be consistent with proposed changes to the City's zoning districts that replace the current pyramid zoning Structure with a more standard and simple zoning scheme.

Building or Structure exclusive of foundations prior to its damage or destruction.

### **5.32.2 Nonconforming Structure**

A Nonconforming Structure may be maintained or restored, but no Alteration shall be made to a Nonconforming Structure unless one of the following conditions is met:

- A.** The Alteration is approved by the Zoning Board of Appeals upon a finding that it complies as nearly as practicable with the requirements of this chapter and that it will not have a detrimental effect on neighboring property.
- B.** The Alteration is approved by the Planning Manager upon a finding that it conforms to all the requirements of this chapter and is made to a Building which will be a Single-Family Dwelling on completion of the Alteration and is located in an R1, R2, R3 or R4 district.<sup>510</sup>
- C.** For purposes of this Section 5.32.2, Alteration shall mean any change in a Building that results in additional Floor Area being fit for occupancy, a greater number of dwelling or rooming units or an increase in the exterior dimensions of the Building.
- D.** A Nonconforming Structure shall not be replaced after damage or destruction of the Nonconforming Structure if the estimated expense of reconstruction exceeds 75% of the appraised value, as determined by the Building Official, of the entire Building or Structure, exclusive of foundations.<sup>511</sup>

### **5.32.3 Nonconforming Lot<sup>512</sup>**

Where the owner of a Nonconforming Lot does not own and cannot reasonably acquire sufficient land to enable the owner to conform to the requirements of this chapter regarding Lot Area, Lot Width, or both, such a Nonconforming Lot may be used by such an owner under the following conditions.<sup>513</sup>

- A. Permitted Use.**

<sup>510</sup> Language clarified to reflect that ZBA approval is not needed for this Alteration.

<sup>511</sup> The entire "Development of Record" section (current Sec. 5:88), which follows this section, was deleted because it dates back to 1966 and is functionally obsolete.

<sup>512</sup> Based on Sec 5:61 Dimensional Standards with significant changes. Subsections 1 through 5 are new.

<sup>513</sup> Language simplified to reflect current practice.

1. A Nonconforming Lot in a Single-Family or Two-Family Residential District may be used for Single-Family use.
  2. A Nonconforming Lot in a Multiple-Family Residential District may be used for Single -Family use.
  3. A Nonconforming Lot in a mixed use district may be used for any permitted principal use in the O Office district.
  4. A Nonconforming Lot a nonresidential/special purpose district may be used for any permitted principal use in the RE or ORL district.
- B. Area, Height and Placement Standards.** Structures on Nonconforming Lots shall conform to the area, height, and placement standards of its zoning designation with the following exceptions:
1. The ZBA grants a variance in accordance with the procedures in Section 5:29.13.
  2. In the R4C district, the setback, placement and height standards of the R1C district may be used for Single-Family Dwellings.
  3. In the R2A district, the setback, placement and height standards of the R1D district may be used for Single-Family Dwellings.
- C. Corner Lots.** When the Required Front Setbacks on a corner Lot reduces the width suitable for a Building to less than 25 feet, the minimum Required Front Setback may be decreased so that a Building 25 feet wide may be Developed<sup>514</sup>.
- D.** Where two abutting Lots are under the same ownership, and where one or both of those Lots are nonconforming, the Lots shall be considered as a single Nonconforming Lot subject to all of the provisions of this Section.
- E.** Where three or more abutting Lots of record are under the same ownership, and where one or more of those Lots are nonconforming, the requirements of this chapter regarding Lot Area and Lot Width shall not be avoided by the sale or conveyance of any portion of such Nonconforming Lots.

### 5.33 Special Standards

#### 5.33.1 Nonconforming Off-Street Parking<sup>515</sup>

- A.** Nonconforming Parking Lots and Driveways lawfully constructed prior to January 1, 1986, may be maintained and continued as Nonconforming Uses. All Parking Lots or additions to existing Parking Lots legally constructed after January 1, 1986, must meet the requirements of this chapter.
- B.** Nonconforming Bicycle Parking Spaces lawfully installed prior to November 26, 1995, may be maintained and continued as Nonconforming Uses. All new bicycle

<sup>514</sup> Text from Sec. 5:58 Corner lot setback on side street.

<sup>515</sup> Text from Sec. 5:171 *Off-Street Parking*.



parking areas or additions to existing bicycle parking areas legally constructed after November 26, 1995, must meet the requirements of this chapter.

### 5.33.2 Nonconforming Signs<sup>516</sup>

- A. Unless otherwise provided in this chapter or other applicable law, Nonconforming Signs may be used, maintained, or repaired in the same form and type as they existed at the time they became nonconforming, subject to the provisions in Subsections B through E below.
- B. No Nonconforming Sign:<sup>517</sup>
  - 1. Shall be changed to another Nonconforming Sign.
  - 2. Shall have any change made in the Structure, shape, size, type, design, or mechanical or electrical equipment of the Sign unless the change brings the Sign into compliance with this chapter; however the Building Official may order repair of a Nonconforming Sign for safety.
  - 3. Shall be re-established or maintained after the activity, Business or usage to which it relates has been discontinued for 90 days or longer.
  - 4. Shall be repaired or erected after being damaged if the repair or erection of the Sign would cost more than 50% of the cost of an identical new Sign.
  - 5. Shall have any change made that would result in different type of or greater Illumination of an Illuminated Sign or change a non-Illuminated Sign to an Illuminated Sign.
  - 6. Shall have any change made to add mechanical or electronic features, except ambient light monitors to regulate brightness in accordance with this Code.
- C. If the owner of a Sign or the Premises on which a Sign is located changes the location of a Building, Lot Line or Sign or changes the use of a Building so that any Sign on the Premises is rendered a Nonconforming Sign, such Nonconforming Sign must be removed or made to conform to this chapter.
- D. Notwithstanding the foregoing, Signs that violate Sections 5.24.10E, 5.24.10F, 5.24.10G, 5.24.10H, 5.24.10I, or 5.24.10J that were in existence before September 1, 1975, and were not removed by that date are illegal Signs, rather than Nonconforming Signs.<sup>518</sup>
- E. Billboards lawfully existing as of April 10, 2013, may be maintained or repaired in the same form and type so as to continue the use of the Billboard in the same manner as its use as of April 10, 2013, however such Billboards may not be expanded, enlarged, or extended and may not be altered to add Illumination, Changeable Copy, or other features that were not lawfully present as of April 10, 2013. Billboards lawfully existing as of April 10, 2013 may be removed for maintenance or repair purposes in accordance with this Subsection 5.33.2E upon obtaining a permit from the City, however, if the Billboard is not reinstalled

<sup>516</sup> Text from Sec. 5:526 *Signs*. Some text deleted per ORD-11-09. Revisions approved by City Council in 2013 have been incorporated.

<sup>517</sup> Text revised per ORD-13-04. Provision prohibiting any change of message was deleted as inconsistent with new message substation provision.

<sup>518</sup> Reference to subsection addressing sign Structures without signs was deleted.

within 90 days of removal, the Nonconforming Use of the Billboard shall be deemed abandoned and the Billboard may not be reinstalled.

### **5.33.3 Nonconforming Activities on Wetlands<sup>519</sup>**

A use or activity regulated by Section 5.23 that was lawfully begun before the passage of the predecessor regulations to Section 5.23 on December 5, 1994, and that is not in conformity with the provisions of Section 5.23 , may be continued subject to the following:

- A. The use or activity shall not be expanded or enlarged in any way unless it is permanently changed to a conforming use.
- B. If a Nonconforming Use or activity is discontinued for 12 consecutive months, any resumption of the activity shall conform to this chapter.
- C. If Nonconforming Use or activity is destroyed, it shall not be resumed except in conformity with the provisions of this chapter.

### **5.33.4 Nonconforming Curb Cuts<sup>520</sup>**

Curb Cuts lawfully made prior to August 2, 1976 that do not meet the standards of this chapter shall be considered non-conforming but may be maintained except as provided in Sections 5.21.2D, 5.21.2E, and 5.21.2F

### **5.33.5 Nonconforming Easements<sup>521</sup>**

Where access and utility easements exist that are not in conformance with this chapter, the existing easement shall be considered a legal nonconforming access and may continue to serve the existing Lots associated with it. Any division of Lots served by a legal nonconforming access and utility easement shall conform to the requirements of Section 5.21 .

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<sup>519</sup> Text from Sec. 5:216 *Wetlands*.

<sup>520</sup> Relocated here from Streets and Access standards.

<sup>521</sup> Relocated here from Streets and Access standards.

# Article VII: Enforcement, Violations, and Penalties<sup>522</sup>

## 5.34 Enforcement and Violations

### 5.34.1 Enforcement

- A. It shall be the duty of the PDSU to enforce the provisions of this chapter, except when a different City department or City official is granted specific enforcement provisions under Chapter 1, Section 1:17(1) of the City Code.
- B. To enforce this chapter, the PDSU, or other department or Person granted specific enforcement powers under this Code, shall have the authority to conduct an on-site inspection of the land where such violation is alleged to have occurred. If needed, inspections inside a Structure, Building, dwelling, Dwelling Unit or Accessory Building shall be made during reasonable hours. Entry without consent of an owner or occupant shall require an order of the court as provided by State law.

### 5.34.2 Violations

#### A. General Provisions

1. Each violation of this chapter shall be deemed a nuisance per se.
2. Each violation of this chapter shall be a civil infraction. Each day on which a violation exists shall constitute a separate violation and a separate offense. The imposition of a fine or penalty under this chapter shall not be construed to excuse or permit the continuation of any violation.<sup>523</sup>

#### B. Types of Violations

Violations of this chapter that are subject to the remedies and penalties provided for in this chapter include but are not limited to:

1. Development without permit or approval. To engage in any Development, use, construction, remodeling, Alteration, placement of signs or other activity of any nature upon land that is subject to this chapter without all of the approvals required by this chapter.
2. Development, use or sign inconsistent with permit, approval or variance. To engage in any Development, use, construction, remodeling, Alteration, placement of signs or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approved site plan, certificate,

<sup>522</sup> This chapter has been extensively rewritten to match current practice and state law. All violations are now civil infractions, and outdated language regarding misdemeanors has been deleted. Specific sign enforcement procedures from ORD-13-04 were not carried over, but have been integrated into standard enforcement procedures.

<sup>523</sup> Reference to maximum dollar amount of fines was moved to penalties section.

approval or other form of authorization required in order to engage in such activity.

3. Development, use or Sign inconsistent with this chapter. To engage in any Development, use, construction, remodeling, Alteration, placement of signs or any other activity of any nature in any way except as permitted or required by this chapter.
4. Increasing intensity or density of use. To increase the intensity or density of use of any land, Building or Structure, except in accordance with the procedural requirements and substantive standards of this chapter.
5. Violating certificate of occupancy requirements. Failure to obtain a certificate of occupancy when required or failure to meet requirements for obtaining a certificate of occupancy.
6. Violating dimensional requirements. To reduce or diminish any Lot area so that the Lot size, setbacks or Open Spaces shall be smaller than prescribed by this chapter or to increase the height or bulk of any Building or Structure in violation of the requirements of this chapter.
7. Removing or defacing required notice. To remove, deface, obscure or otherwise interfere with any notice required by this chapter.
8. Obtaining permit or approval in a fraudulent manner. To obtain any permit, approval, certificate or other form of authorization required by this chapter in a fraudulent manner.
9. Deviation from approved PUD. To deviate from an approved PUD zoning district or PUD site plan, except as authorized in this chapter.
10. All other violations. To establish or operate other activities, Structures or land uses in violation of any specific provisions, or the general purpose and intent of this chapter.

## 5.35 Powers and Procedures

### 5.35.1 General Enforcement Powers

- A. The City may use any lawful remedy or enforcement power against the owner or occupant of property for any violation of this chapter, including, but not limited to, one or more of the following:
  1. Withhold, deny or condition permit. The City may withhold or deny any and all permits, approvals, certificates of occupancy or other forms of authorization:
    - a. From an Applicant on any land or Structure or improvements when there is an uncorrected violation of a provision of this chapter or of a condition or qualification of a permit, approval, certificate of occupancy or other authorization previously granted by the City on the parcel of land that is the subject of the application.
    - b. On any land or Structure or improvements owned or being developed by a Person who owns, developed or otherwise caused an uncorrected violation of a provision of this chapter or of a condition or qualification of

a permit, approval, certificate of occupancy or other authorization previously granted by the City.

- c. In addition to withholding or denying a permit or other authorization as described in Subsections a and b, the City may grant such permit or other authorization subject to the condition that the violation be corrected.
  - d. The provisions of Subsections a, b, and c above shall apply regardless of whether the current owner or Applicant is responsible for the violation in question.
2. Revoke permits. Any Development permit, certificate of occupancy or other form of authorization required under this chapter may be revoked if the City determines that (1) there is departure from the plans, specifications or conditions as required under terms of the permit; (2) that the Development permit was procured by fraudulent means or was issued in error; or (3) that any of the provisions of this chapter are being violated. Any permit or other authorization revoked under this procedure shall become null and void.
  3. Complete work. For violations that the City determines have a significant adverse impact on the public health, safety or welfare of residents or the appearance of the City, or may increase traffic risks or driver confusion, the City may commence work itself to enforce the provisions of this chapter and bring property into compliance, or may require the owner or occupant to complete work to remedy the violation (for example to restore as nearly as possible the Wetland affected by the violation to its original condition immediately before the violation).<sup>524</sup>
  4. Stop work. With or without revoking permits or other forms of authorization, the City may stop work on any Building or Structure located on any Lot or parcel of land on which there is a violation of a provision of this chapter or of a permit or other form of authorization issued pursuant to this chapter or another section of the City Code.
  5. Notice of violation. Prior to issuing a civil infraction citation, the City may send a letter notifying the owner or occupant of the violation and requiring that it be remedied within a particular amount of time.
  6. Municipal civil infraction. Except as otherwise provided in Section 5.36.2 of this chapter or by another section of this Code, a violation of this chapter shall constitute a municipal civil infraction, which upon an admission or finding of responsibility shall be punishable by a fine of up to \$30,000.
  7. Injunctive relief. The City may seek an injunction or other equitable relief in court to stop any violation of this chapter or of a permit, approval, certificate or other form of authorization granted by this chapter.
  8. Declaration of nuisance. A violation of this chapter is a nuisance per se and the City may institute appropriate actions or court proceedings to correct, or abate any violation of the provisions of this chapter. If the owner or occupant fails to abate a violation, the City may take action to abate the violation. The

<sup>524</sup> Revised to include more objective standards for when this remedy will be used.

abatement may be performed by the City, by a contract vendor, or by other means determined by the City. The cost of such an action, plus an administrative fee, shall be a Personal debt of the owner, and may be assessed as a lien against the property until paid.

9. Other remedies. The City shall have all enforcement powers granted from time to time under all applicable federal, state, and local laws, rules and regulations.

B. The remedies and enforcement powers established in this chapter shall be cumulative, and the City may exercise them in any order.

### 5.35.2 Specific Enforcement Powers

#### A. Storm Water Management and Soil Erosion<sup>525</sup>

Whenever the performance of any act is required or prohibited by the provisions of Section 5.22 or a related provision of Sections 5.29.3 or 5.29.4, a failure to comply with those provisions shall constitute a violation of this chapter. The Planning Manager may issue a stop work order on the remaining portion of construction or may refuse the issuance of building permits or certificates of occupancy. The Planning Manager may also cause such work, as necessary for compliance with this chapter, to be performed and the expense of work performed shall become a debt to the City from the landowner and may be collected as a single Lot assessment under Section 1:292 of this Code, or in any other manner in which an indebtedness due the City may be collected. Additional enforcement provisions are included in Chapter 100 of this Code and the Michigan Construction Code.

#### B. Sign Inspection<sup>526</sup>

A Person who owns or controls a Sign and a Person who owns or controls the property where a Sign is located shall make the Sign available for City staff to inspect for compliance with the City Code or other applicable law upon the City's request

### 5.35.3 Enforcement Procedures

- A. For any violation of this chapter, the City may provide, by certified mail, notice of the violation to the property owner or occupant as indicated by the records of the City Assessor. The notice should specify the amount of time within which to correct or remedy the violation before further enforcement action may be taken.
- B. For any violation of this chapter, the City may issue a municipal civil infraction citation to the owner or occupant, whether or not the City has provided initial notice of a violation. The citation shall be formatted in compliance with state law. The City may issue a new citation every day that a violation remains uncorrected.
- C. Alternatively, or in addition, the City may choose to enforce this chapter with a nuisance lawsuit.

<sup>525</sup> Text from Sec. 5:670 *Grading*.

<sup>526</sup> Current 5:515 as revised by ORD13-04.



## 5.36 Penalties<sup>527</sup>

### 5.36.1 General Provisions

- A.** If the City chooses to enforce a violation of this chapter through issuance of a civil infraction the following penalties shall apply to each day that the violation remains uncorrected, with a maximum fine of up to \$30,000.
1. The first offense shall be punishable by a fine of not more than \$500.
  2. The second offense shall be punishable by a fine of not less than \$1,000.
  3. The third offense shall be punishable by a fine of not less than \$2,500.
- B.** The owner or occupant may also be responsible for all costs, direct or indirect, which the City has incurred in connection with the violation.
- C.** A penalty may be collected as a special assessment against the property as provided in Section 1:292 of this Code, or in any other manner in which indebtedness due the City may be collected.

### 5.36.2 Specific Provisions

#### **A. Storm Water Management and Soil Erosion Control**

1. Except as set forth in Subsections 2 and 3 below, a violation of Section 5.22 . is a municipal civil infraction subject to a civil fine of no more than \$2,500.00, plus costs, plus equitable relief as may be ordered by the court, including but not necessarily limited to ordering the Person to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation. Each day and each violation is a separate violation.
2. A Person who knowingly violates Section 5.22 or a related provision of Sections 5.29.3 or 5.29.4 or knowingly makes a false statement in an application for a permit or in a soil Erosion and sedimentation control plan is responsible for a civil infraction and is subject to the payment of a civil fine of not more than \$10,000.00 for each day of violation, plus costs plus equitable relief as may be ordered by the court, including but not necessarily limited to ordering the Person to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.
3. A Person who knowingly violates Section 5.22 or a related provision of Sections 5.29.3 or 5.29.4 after receiving a notice of the violation is responsible for a civil infraction and is subject to the payment of a civil fine of not less than \$2,500.00 or more than \$25,000.00 for each day of violation, plus costs, plus equitable relief as may be ordered by the court, including but not necessarily limited to ordering the Person to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.

## Article VIII: Definitions<sup>528</sup>

Words and phrases used in this chapter shall have their usual and customary meaning, except that the following terms shall have the meanings stated below. In addition to the definitions below, the definitions from the following documents shall apply to this chapter: (1) Part 91 of 1994 PA 451 (Michigan Compiled Laws) as amended; (2) Rules of the Washtenaw County Water Resources Commissioner; and (3) Ann Arbor City Code Chapter 103 *Historical Preservation*.<sup>529</sup> All words defined in the Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and used in this chapter, shall have the meaning specified in that Act and the Administrative regulations passed pursuant to that Act, unless a different definition for that term is provided in this Article VIII.<sup>530</sup>

### 5.37.1 Generalized Terms<sup>531</sup>

The following generalized terms are used for specific groupings of zoning districts as follows:

- A. Single-Family Zoning Districts – collectively refers to the R1A, R1B, R1C, R1D, and R1E Single-Family Dwelling districts.
- B. Two-Family Zoning Districts – collectively refers to the R2A and R2B Two-Family Dwelling districts.
- C. Multiple-Family Zoning Districts – collectively refers to the R3 Townhouse Dwelling district and the R4A, R4B, R4C, R4D, and R4E Multiple-Family Dwelling districts.
- D. Residential Zoning Districts – collectively refers to the R1A, R1B, R1C, R1D, and R1E Single-Family Dwelling districts, the R2A and R2B Two-Family Dwelling districts, the R3 Townhouse Dwelling district, and the R4A, R4B, R4C, R4D, and R4E Multiple-Family Dwelling Districts.

### 5.37.2 Specific Terms

#### Accelerated Soil Erosion

The increased loss of the land surface that occurs as a result of human activities.

#### Accessory Building<sup>532</sup>

A Building that is subordinate in use, area and purpose to the Principal Land Use and Principal Building in which an Accessory Use is contained or conducted on the Lot. Accessory Buildings can be attached or detached to a Principal Building. When attached, the Accessory Building shall be considered part of the Principal Building for setback purposes.

<sup>528</sup> Definitions came from various sections throughout the code: Sections 5:1, 5:7, 5:10.20, 5:50, 5:51, 5:81(1), 5:120, 5:161, 5:201, 5:501, 5:601, 5:652, and 8:431.

<sup>529</sup> The second sentence Text is from 5:652 *Storm Water*, but has been made generally applicable to the UDC. Text reading “In the case of a conflict among the definitions in the documents listed above, the document listed first shall prevail over any conflicting definition of a document listed later” was not carried over.

<sup>530</sup> The last sentence text is from Sec. 5:201 *Wetlands*, but has been made generally applicable to the UDC.

<sup>531</sup> Because there are so few, these terms may be integrated into the list of definitions for specific terms that follows.

<sup>532</sup> New definition.

**Accessory Dwelling Unit<sup>533</sup>**

A Dwelling Unit for not more than one Family which is an integral part of a Single-Family dwelling or is included in a detached Accessory Building, and that meets all of the requirements of Section 5.16.6D.

**Accessory Use<sup>534</sup>**

A land use that is subordinate in use, area, or purpose to a principal land use on the same Lot and serving a purpose naturally and normally incidental to such principal land use.

**Active Open Space<sup>535</sup>**

The portion of Open Space devoted to and suitable for Outdoor Recreation and household activities measuring at least six feet by ten feet if intended for common or shared use by all households and at least four feet by ten feet if intended for private or individual household use. Common or shared Active Open Space may include, but shall not be limited to, lawns, sidewalks and pathways, playgrounds, fields (baseball, soccer, etc.), courts (basketball, tennis, etc.), and swimming pools. Private or individual Active Open Space may include, but shall not be limited to, porches, decks, balconies, patios, and accessible portions of Roofs. Active Open Space shall not include Woodlands, storm water management basins, Wetlands, Natural Features Open Space, conflicting land use buffers, Vehicular Use Area interior landscape islands, or screening.

**Adult Bookstore**

An establishment having as a Principal Activity the sale of books, magazines, newspapers, video tapes, video discs, and motion picture films that are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy.

**Adult Day Care Center<sup>536</sup>**

A facility licensed by the state for aged, infirmed, or disabled adults (18 years old or older) that is operated during a part of the day only and provides supplementary care and protection of individuals who reside elsewhere, except the home or residence of an individual who cares for only Persons related to him by blood or marriage.

**Adult Entertainment Business**

One or a combination of more than one of the following types of Businesses: Adult Bookstore, Adult Motion Picture Theater, Adult Mini-Motion Picture Theater, Adult Personal Service Business, Adult Novelty Business, Adult Nightclub.

**Adult Foster Care<sup>537</sup>**

Use of a Structure constructed for residential purposes that is licensed by the state under the Adult Foster Care facility licensing act, 1979 PA 218, MCL 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.

**Adult Motion Picture Theater**

An enclosed Building with a capacity of 50 or more Persons having as a Principal Activity displaying motion pictures characterized by their emphasis on portrayals of human genitals and

<sup>533</sup> New definition. Merges definition of “accessory apartment.” Revised since prior draft.

<sup>534</sup> Revised definition – the current text reads “A land use that is incidental to a principal land use.”

<sup>535</sup> New definition.

<sup>536</sup> New definition.

<sup>537</sup> New definition.

pubic regions or acts of human masturbation, sexual intercourse or sodomy for observation by patrons therein.

#### **Adult Mini-Motion Picture Theater**

An enclosed Building with a capacity of less than 50 Persons<sup>538</sup> having as a Principal Activity the presenting of material characterized by emphasis of portrayals of human genitals and pubic regions or actions of human masturbation, sexual intercourse or sodomy for observation by patrons therein in individual viewing booths.

#### **Adult Novelty Business**

A Business that has as a Principal Activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

#### **Adult Personal Service Business**

A Business having as a Principal Activity a Person, while nude or Partially Nude, providing Personal Services for another Person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services; massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, and individual theatrical performances. It does not include activities performed by Persons pursuant to, and in accordance with, licenses issued to such Persons by the State of Michigan.

#### **Adult Nightclub**

A Business with the Principal Activity of providing entertainment by nude or Partially Nude performers.

#### **Affordable Housing for Lower Income Households**

Housing units for households or individuals with income levels (including low and very low income levels) that are less than 80% of City median income as defined by the United States Department of Housing and Urban Development where the occupant is paying no more than 30% of gross income for housing costs, including taxes and utilities.<sup>539</sup>

#### **Agriculture / Greenhouse<sup>540</sup>**

The production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products, conducted on either unenclosed land or in enclosed Structures, such as Greenhouses and Barns.

#### **Airport, Municipal<sup>541</sup>**

A publically owned area of land that is used or intended for the use for the landing and takeoff of aircraft, and includes its Buildings and facilities, if any. Accessory Uses may include but are not limited to aircraft storage, servicing, fueling, or leasing; private aviation clubs or associations.

#### **Alteration<sup>542</sup>**

Any change or rearrangement in the supporting members of an existing Building, such as bearing walls, columns, girders, or interior partitions, as well as any change in doors, windows, means of

<sup>538</sup> Text on size limits added to avoid overlap with "Adult Motion Picture Theatre" use.

<sup>539</sup> Text from last sentence from "affordable housing." This term has been combined as the two terms are used together.

<sup>540</sup> Revised definition – the current text is limited to "Agriculture: The production of crops"

<sup>541</sup> New definition.

<sup>542</sup> New definition.

ingress or egress, or any enlargement to or diminution of a Building or Structure, whether horizontally or vertically, or the moving of a Building or Structure from one location to another.

**Applicant**<sup>543</sup>

A Person submitting an application or petition for review.

**Approach**

An area improved for vehicular traffic on a public street Right-of-Way that connects the traveled portion of the street with a Driveway.

**Archaeological Resources**

Any material remains of past human life and activities that are of either historic or prehistoric archaeological interest.

**Architect**

A Person licensed by the State of Michigan to engage in the practice of Architecture or landscape Architecture, as defined by Act 299 of the Public Acts of 1980 (as amended), being (Section 2001 or 2201 of the Michigan Compiled Laws of 1979).

**Artist Studio**<sup>544</sup>

Work space for one or more artists or artisans, including space for the accessory sale of art produced on the Premises.

**Asphalt and Concrete Mixing Plant**<sup>545</sup>

A plant for the manufacture or mixing of asphalt or concrete, including any apparatus and uses incident to such manufacturing and mixing.

**Automobiles, Motorcycles, Recreation Vehicles, Equipment (Sales and Rental)**

The sale, display, lease, rental, or storage of light motor vehicles, including Automobiles, vans, light trucks, light trailers, boats, construction Equipment, and Recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial Parking Lots available for short-term use.

**Automobiles, Trucks and Construction Equipment Repair**<sup>546</sup>

Any Building, Structure, or Lot used for the Business of repairing Automobiles, trucks, or construction Equipment or the sale and installation of tires, batteries, and other minor accessories and services for Automobiles, trucks, or construction Equipment. This shall not include retail sale of vehicle supplies, tires, or parts unrelated to repairs being performed on the Premises, the retreading and/or vulcanizing of tires, Fueling Stations, or convenience stores that sell gasoline or lubricating oil, except other vehicle accessories or services are included in this use.

**Awning**<sup>547</sup>

<sup>543</sup> New definition.

<sup>544</sup> New definition.

<sup>545</sup> This definition was split apart from larger “scrap and waste material, Asphalt and Concrete Mixing Plants, sand and gravel pits, slaughterhouse” use.

<sup>546</sup> New definition. Use merges “Vehicle Repair and Storage.”

<sup>547</sup> New definition.

A rooflike cover attached only to the face of a Structure extending over or in front of a place, such as over steps or in front of a door or window, as a shelter.

**Bank, Credit Union, Financial Services<sup>548</sup>**

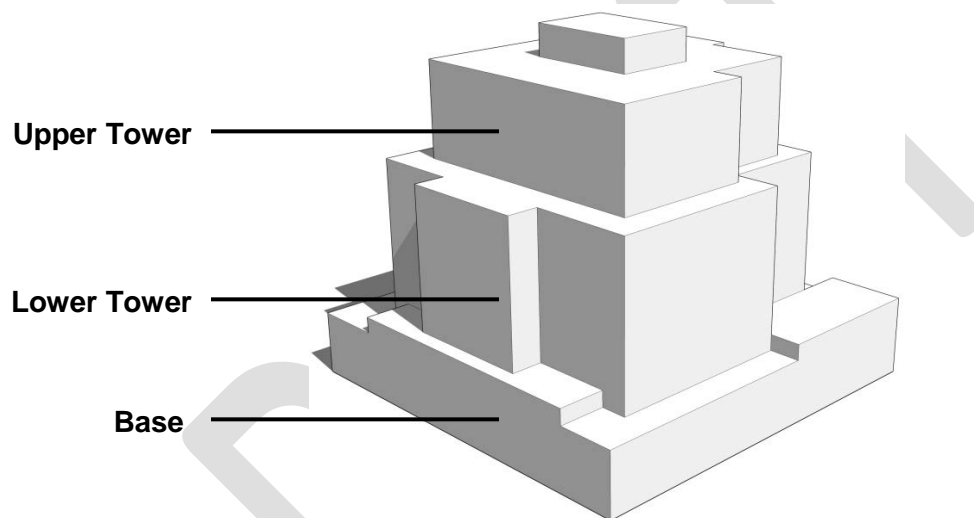
An establishment that provides retail Banking, mortgage lending, and Financial Services to individuals and Businesses, and including check-cashing facilities. Accessory Uses may include automatic teller machines and Administrative Offices.

**Barn<sup>549</sup>**

An agricultural Building required to serve the farm on which it is located.

**Base**

The portion of a Building located between the street Grade and the Streetwall Height (see Figure 1).



**Figure 1: Base, Lower Tower, and Upper Tower**

**Beauty Salon<sup>550</sup>**

A Personal Services establishment that provide beauty treatments such as hair cutting, coloring and styling; hair removal; manicure; pedicure; skin care; and therapeutic massage.

**Bed and Breakfast (Principal)<sup>551</sup>**

A type of Hotel in which the operator typically lives and provides, but is not required, to serve meals to guests.

**Bed and Breakfast (Accessory)<sup>552</sup>**

A Building designed as a Single-Family dwelling in which the operator lives and provides guestrooms of lodging accommodations by prior arrangement to no more than 3 guests for compensation to nonfamily members where occupancy of the dwelling including guests complies

<sup>548</sup> New definition.

<sup>549</sup> Revised definition. The current text is "Barns and other agricultural Buildings and Structures required to serve the form on which they are located.

<sup>550</sup> New definition created from current standard.

<sup>551</sup> New definition.

<sup>552</sup> New definition that addresses a Bed and Breakfast when operated as an Accessory Use and not as a Principal Use.



with the requirements for the zoning district in which the dwelling is located. It may or may not include serving of meals to guests.

### **Bicycle Parking Space**

An area and facility used for the securing of bicycles. This term shall include enclosed bicycle storage, covered bicycle racks, or fixed bicycle racks that meet the requirements the for bicycle parking in this chapter.

### **Billboard**

An Off-Premises Sign with a Sign Area in excess of 200 square feet.

### **Bioretention**

A storm water infiltration system capable of retaining and infiltrating runoff from the first one-half (1/2) inch of rainfall during any storm event.<sup>553</sup>

### **Boarding House**

See Group Housing.

### **Borrow Pit**<sup>554</sup>

An area from which soil or other unconsolidated material are removed and used, without additional Processing, as Fill for other Development-related activities.

### **Building**

Any Structure having a Roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, Equipment, goods or materials of any kind. When separated by division walls from the ground up without openings, each portion of such Structures shall be deemed a separate Building.<sup>555</sup>

### **Building Coverage**

The percentage of a Lot covered by Buildings, including carports and Parking Structures. Building Coverage is measured from exterior wall to exterior wall, including all structural projections except architectural features such as cornices, eaves, and chimneys.

### **Building Frontage**

The portion of a Building facing any adjacent public street.

### **Building Height**

The vertical distance of a Building measured from the Finished Grade to the highest point of the Roof surface of a flat Roof; to the deck line of a mansard Roof; and to the average height between the eaves and the ridge of the highest Roof section for a gable, hip and gambrel Roof.<sup>556</sup>

<sup>553</sup> New definition from Ord. 11-09.

<sup>554</sup> Revised definition. The current text reads "Sand and gravel Borrow Pits operated so as to shape and form the land for more desirable future residential use."

<sup>555</sup> The second sentence has been added to avoid manipulation of term by creating artificial connections between Buildings in order to have them treated as single Building. In addition, a definition of "Building: A permanent Structure for human occupation to which the Sign relates" from the current Sign regulations was deleted as no longer necessary. This definition is being reviewed for consistency with ORD 13-04.

<sup>556</sup> Method of measurement has been clarified.

**Business**

Any legal use of a Building by a Person other than for a Religious Assembly, Child Care Center, school, Home Occupation, or residence. Although contained in the same Building as another Business and owned by the same Person, a use may be treated as a separate Business if it is physically separated, uses different personnel, and provides different products or services.<sup>557</sup>

**Business Center**

A group of five or more Businesses that collectively has a name different than the name of any of the individual Businesses and that has common private parking and entrance facilities, or that is a platted Business subdivision.

**Business Frontage**

The length of the portion of a Building occupied by a single Business facing a street adjacent to the Premises on which the Business is located.<sup>558</sup>

**Business Services<sup>559</sup>**

Service rendered to Business establishment or individual on a fee or contract basis including but not limited to actuarial, advertising, janitorial, Office or Business Equipment rental, photocopying, and other such services.

**Canopy**

For purposes of Natural Features and Storm Water Management, the area within the outermost spreading vegetative layer of any woody plant(s) delineated by the Critical Root Zone.

For purposes related to Structures and Buildings, a rooflike Structure covered with canvas supported by poles extending over or in front of a place such as over a sidewalk or patio or in front of a door, to provide shelter from the elements.<sup>560</sup>

**Cemetery<sup>561</sup>**

Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundaries of the Cemetery.

**Certification**

A Signedsigned, written statement by the Planning Manager that specific improvements, inspections, or tests, where required, have been performed and that they comply with the applicable requirements of this chapter or regulations adopted pursuant to this chapter.

<sup>557</sup> Definition from current Sec. 5.501(4) in Ch. 61: Signs and Outdoor Advertising. This definition is being reviewed for consistency with ORD 13-04.

<sup>558</sup> This definition was renamed to distinguish it from the very similar definition for “Building Frontage.”

<sup>559</sup> New definition.

<sup>560</sup> New definition.

<sup>561</sup> New definition.

**Changeable Copy**

That portion of a Sign that is designed or used to display characters, letters, words, or illustrations that can be readily changed or rearranged by manual, mechanical, or electronic means without altering the face of the Sign.<sup>562</sup>

**Child Care Center**

A facility that receives one or more children for care for periods of less than 24 hours a day.

**Christmas Tree Sales<sup>563</sup>**

A temporary Retail Sales operation, generally conducted wholly outside, that offers for sale Christmas trees and related holiday items, such as wreaths and tree stands.

**Clearing**

The severing of Woody Plants above ground level, leaving root system and stumps intact.

**Club Headquarters or Community Centers<sup>564</sup>**

Buildings and facilities owned or operated by a corporation, association, Person, or Persons for a place of meeting, social, cultural, or educational, or Recreational purposes, to which membership or residency requirements are is required for participation.

**Coal and Coke Dealer**

Establishment engaged in the sale or distribution of coal and coke.

**Community Recreation<sup>565</sup>**

Use of a Buildings and facilities accessory to townhouse and Multiple-Family Dwellings for a social, educational, or Recreational purpose, to which residency of the townhouse or Multiple-Family Dwellings are required for participation and that does not render a service customarily carried on as a Business.

**Conceptual PUD Plan**

A graphic depiction in plan form of the elements of a planned unit development district that illustrates the PUD Development Program and the district's Supplemental Regulations.

**Conference Center<sup>566</sup>**

A facility used for service organizations, Business and professional conferences, and seminars, and limited to accommodations for conference attendees.

**Contractors, General Construction and Residential Builders<sup>567</sup>**

Individuals or Businesses offering services related to construction of Buildings and Development of land such as Residential Trade Contractors and home builders, highway and street, heavy construction and general Buildings; Coal and Coke Dealers.

**Corner Lot<sup>568</sup>**

See Lot, Corner.

<sup>562</sup> Text added per ORD-13-04.

<sup>563</sup> New definition.

<sup>564</sup> New definition.

<sup>565</sup> Definition based on "Social club and Community Recreation Building."

<sup>566</sup> New definition.

<sup>567</sup> New definition.

<sup>568</sup> New definition.

**Correctional Facility**<sup>569</sup>

A publicly or privately operated facility to house Persons awaiting trial or Persons serving a sentence after being found guilty of committing a crime. This use includes a prison, jail, and adult or juvenile detention center.

**Critical Root Zone**

The circular area surrounding a tree that is considered to contain tree roots within 18 inches of the ground surface. The radius of the Critical Root Zone is, in feet, the same numerical value as the tree's Diameter at Breast Height (DBH) in inches, and is measured outward from the center of the tree. For example, the Critical Root Zone of a 12-inch DBH tree has a radius of 12 feet.

**CSA**

Community Services Area.

**Cultural Services**<sup>570</sup>

A facility, such as a Museum, art gallery, or similar public or semi-public use, that displays, preserves, and exhibits objects of community, cultural, or scientific interest.

**Curb Cut**

That section of curb removed to permit ingress and egress from the pavement to the adjacent property and shall be measured between the points of tangency of the Opening radii with the normal street curbing.

**Cut or Excavation**

Any act, by which soil or rock is Cut into, dug, quarried, uncovered, removed, displaced or relocated, and shall include the conditions resulting there from.

**Data Processing and Computer Center**<sup>571</sup>

An establishment that conducts computer programming, software development, and training, and services and maintains electronic data Processing Equipment.

**DDA**<sup>572</sup>

The Ann Arbor Downtown Development Authority.

**Debris**

Loose refuse or earth material not suitable for use as presently situated or constituted.

**Development**<sup>573</sup>

Any human alteration to the state of land, including its vegetation, soil, geology, or hydrology, for any residential, commercial, industrial, utility, or other use, such as, but not limited to, Clearing, Grubbing, or Grading of land, and structural improvements (e.g., Buildings, walls, Fences, Signs, and vehicular areas).

**Diameter at Breast Height (DBH)**

The diameter of a tree measured ~~four~~ 4.5 feet above the existing Grade.

<sup>569</sup> New definition.

<sup>570</sup> New definition.

<sup>571</sup> New definition.

<sup>572</sup> New definition.

<sup>573</sup> New definition.

**Dish Antenna**

A Signal-sending or receiving device for communicating with orbiting satellites.

**Dormer**<sup>574</sup>

A window vertical in a Roof or the Roofed Structure such as a window.

**Drive-Through Facility**<sup>575</sup>

Any Building or Structure, or portion thereof, that is constructed or operated for the purpose of providing goods or services to customers who remain in their motor vehicle during the course of the transaction.

**Driveway**

An access roadway between a public street and a Parking Space, Structure, or Lot.

**Dwelling Unit**

One or more rooms with kitchen and sanitary facilities designed as a unit for occupancy by a Single-Family. See also Accessory Dwelling Unit, Manager's Dwelling Unit, Assisted Living Dwelling, Multiple-Family Dwelling, Single-Family (or One Family) Dwelling, Townhouse Dwelling, Two-Family Dwelling.

**Dwelling Unit, Accessory**<sup>576</sup>

See Accessory Dwelling Unit.

**Dwelling Unit, Manager's**<sup>577</sup>

An Accessory Dwelling Unit located on a Site used for nonresidential uses specifically for managers, Security staff and caretakers of the Principal Use.

**Dwelling, Assisted Living**<sup>578</sup>

A Multiple-Family dwelling which may or may not be licensed by the State of Michigan where accessory services primarily for, but not limited to, older adults are provided to help with normal daily activities as an integral part of the dwelling. Assisted Living Dwellings may also be known as assistive living, continuing care community, senior independent living, senior living community, senior housing and care, and housing with services establishment, or other similar marketing term.

**Dwelling, Multi-Family**

A Building containing three or more Dwelling Units arranged either side by side or one above the other.

**Dwelling, Single-Family (or One-Family)**

A detached Building connected to public water and sanitary sewer services containing 1 Dwelling Unit.

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<sup>574</sup> New definition.

<sup>575</sup> Definition revised in ORD-16-16

<sup>576</sup> New definition. Merges definition of "accessory apartment."

<sup>577</sup> New definition.

<sup>578</sup> New definition.

**Dwelling, Townhouse**

A Building containing three or more Dwelling Units arranged side by side, separated from each other by a firewall and having separate direct means of egress and ingress to each unit from the outside.

**Dwelling, Two-Family (or Two-Family)**

A detached Building containing two Dwelling Units, but not including two<sup>579</sup> otherwise freestanding Single-Family units that are attached at one point or by a non-structural decorative feature.

**Earth Change**

Any Excavation or Cut, Fill or Grading as herein defined.

**Electric, Gas and Sanitary Services<sup>580</sup>**

All lines and facilities related to the provision, collection, distribution, and transmission of water, storm and sanitary, power, and Gas Services.

**Emergency Shelter<sup>581</sup>**

A facility for the temporary shelter and feeding of indigents or disaster victims, operated by a public or nonprofit agency.

**Endangered Species Habitat**

The habitat necessary to maintain the existence of those plants and animals listed on the current federal and state list of endangered or threatened species.

**Entertainment, General<sup>582</sup>**

Any establishment where generally non-sporting indoor entertainment, either passive or active, is provided for the pleasure of the patrons, either independent or in conjunction with another use. Examples include, but are not limited to, arcades, Pinball Parlors, dancing, music, karaoke, and similar uses. This use does not include any activity that meets the definition of indoor or Outdoor Recreation.

**Erosion**

The process by which the ground surface is worn and carried away by the action of wind, water, gravity or a combination thereof.

**Established Building Setback<sup>583</sup>**

The distance at which an existing Building is located from a Lot Line.

**Established Building Line (including Front, Side, and Rear)<sup>584</sup>**

A line parallel to the Lot Line, extending from the point at which an existing Building is closest to the Lot Line outward to the Lot Lines.

<sup>579</sup> Revised definition – the second clause was added to avoid manipulation of the current definition.

<sup>580</sup> New definition based on definition for “Transportation, communications, electrical, gas and Sanitary Services.”

<sup>581</sup> New definition.

<sup>582</sup> New definition.

<sup>583</sup> New definition.

<sup>584</sup> Formerly Established Setback Line.



**Established Front Building Line**<sup>585</sup>

The Established Building Line that is parallel to the Front Lot Line.

**Family**

An individual or group of individuals occupying a Dwelling Unit as a single Housekeeping Unit, or a group of persons whose right to live in a single Dwelling Unit is protected by the federal Fair Housing Act Amendments of 1988.<sup>586</sup>

**Family Day Care Home**

A private dwelling in which up to 6 minor children are received for care and supervision for periods of less than 24 hours a day.

**Fence**

Any artificial permanent Fence, partition, Structure, or gate erected as a dividing marker, Barrier, or enclosure.

**Fill**

A deposit of soil or rock placed or replaced by people or machine.

**Final Acceptance**

Certification by the City Administrator that all obligations and work set forth in an approved site plan and Development Agreement, if any, have been satisfactorily performed.

**Finished Grade**

The level of the ground adjacent to the Structure if the ground is level. 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.<sup>587</sup>

**Floodplain, 100-Year**

An area which has a 1% chance of flood occurrence in any given year.

**Floodway**

The channel of a river or other Watercourse and the adjacent land areas that must be reserved in order to store and discharge the base flood without cumulatively increasing the water surface elevation more than 0.1 feet, as designated by the Michigan Department of Environmental Quality and indicated on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency.<sup>588</sup>

**Floor**

The top surface of an enclosed area in a Building (including Basement), i.e., top of slab in concrete slab construction and top of wood Flooring in wood frame construction.<sup>589</sup>

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<sup>585</sup> Formerly Established Front Setback Line, revised definition to be a subset of Established Setback Line.

<sup>586</sup> The phrase "in accordance with the standards of section 5:7" was deleted, since those would apply anyway. Second clause is new; added to avoid inadvertent potential violations of FHAA.

<sup>587</sup> New definition.

<sup>588</sup> New definition.

<sup>589</sup> New definition.

**Floor Area**<sup>590</sup>

The sum of the area, in square feet, of the Floor of all stories of a Building or Structure measured from the exterior faces of the exterior walls or from the center line of walls separating two Buildings, excluding: stairwells (including landings), escalators, elevator shafts, ramps, vertical chases or chutes, and attics in which occupancy is prohibited under Chapter 105 (Housing Code) of City Code in Buildings that contain only residential uses.

**Floor Area Ratio**<sup>591</sup>

The sum of the Floor Area of all principal and Accessory Buildings and Structures on a Lot divided by the Lot area expressed as a percentage. When calculating Floor Area Ratio, the following shall be excluded: Floor Area used for required premium or PUD vehicle parking and required bicycle parking, and Floor Area used for below grade parking where below grade means more than half of the volume of that Story is below the Finished Grade.

**Fraternity or Sorority House**

A Building used by a college fraternity or sorority as a principal place of residence for its members.

**Fueling Station**<sup>592</sup>

A facility for the sale or distribution of gasoline or equally inflammable fuel oils. This use does not include any services other than distributing the fuel or sales of any other goods except those directly related to fuel sales and distribution. Other services or sales shall be considered separately.

**Funeral Services**<sup>593</sup>

A Building or place where ceremonies for the deceased are conducted.

**Functional Family**

A group of people plus their Offspring, having a relationship which is functionally equivalent to a Family. The relationship shall be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional Family shall not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals where the common living arrangement or basis for the establishment of the Housekeeping Unit is temporary.

**Government Offices and Courts**<sup>594</sup>

An Office of a governmental agency that provides Administrative and/or direct services to the public, such as, but not limited to: City hall, post Office, Courts, employment Office, Library, waste treatment facilities, Correctional Facility, public assistance Office, or motor vehicle licensing and registration services.

**Grade or Grading**

Any Stripping, excavating, filling, Stockpiling or any combination those activities, and shall include the land in its excavated or filled condition.

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<sup>590</sup> New definition.

<sup>591</sup> New definition.

<sup>592</sup> Modified definition.

<sup>593</sup> New definition. This use merges "funeral home."

<sup>594</sup> New definition.

**Grading Permit**

A soil Erosion and Sedimentation control permit issued to authorize work to be performed under this Ordinance.

**Group Day Care Home**

An Accessory Use of a private dwelling in which up to 12 minor children are given care and supervision for periods of less than 24 hours a day.

**Group Housing<sup>595</sup>**

A Building containing a group of rooms forming a single habitable unit used or intended to be used for living and sleeping. Separate kitchen and dining facilities may or may not be provided within the Building. Also known as a Rooming House or Boarding House. See also “Family living arrangement” in 5.16.1.A.2.

**Grower<sup>596</sup>**

As used in the context of Marijuana, a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

**Grubbing**

To clear ground of roots and stumps by digging them up.

**Guest House<sup>597</sup>**

A place for temporary lodging for Family members of a patient at a Hospital that usually has a resident manager, provides one or more meals per day to guests, and offers other support services.

**Haul Road**

An on-site roadway constructed to prevent the spread of Debris onto the Public Right-of-Way.

**Hazard**

Any danger to public health, welfare, and safety including exposure to risk of damage to property or liability for personal injury; or risk of harm to land, air or water resulting in environmental degradation. Hazards can include flooding and ponding, compaction and settling, landslides, earthquakes, toxic chemicals, radiation, fire, and disease.

**Heavy Manufacturing<sup>598</sup>**

An Industrial Plant, Manufacturing, Processing, or Assembling that does not meet the definition of Light Manufacturing

**High-Water Mark, Ordinary**

The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level

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<sup>595</sup> New definition to implement Ord. 10-32

<sup>596</sup> Added per Ord. 17-21.

<sup>597</sup> New definition.

<sup>598</sup> New definition. Revised for clarity since prior draft.

as the result of the permanent removal or abandonment of a dam, it means the natural Ordinary High-Water Mark.

**Home Occupation**

An Accessory Use of a nonresidential nature that is performed within a dwelling or within an Accessory Building, and conducted by members of the Family residing in the dwelling, and not more than one additional employee.

**Hospital<sup>599</sup>**

An institution or place where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are supervised or given care and treatment on a prolonged or permanent basis.

**Hotel**

A Building or portion of a Building containing 4 or more individual rooms, suites of rooms or Dwelling Units offered for transient sleeping accommodations for periods of 29 days or less and providing customary lodging services to guests, such as furnishing and upkeep of furniture and linens, concierge services, and communication and fitness facilities. This use includes motels.

**House Trailer<sup>600</sup>**

Any vehicle used or intended for use as a dwelling, regardless of whether such vehicle is self-propelling or is moved by other agencies.

**Housekeeping Unit**

A Dwelling Unit organized as a single entity in which the members of the household share common facilities.

**Illuminated or Illumination**

When used in the context of sign regulation, refers to lighting of a sign by any type of artificial light, whether by emission or reflection.<sup>601</sup>

**Impervious Surface**

All paved or hard surfaced areas, such as areas covered by Buildings and Structures; roads and drives; Parking Lots; formed curb and gutters; Vehicular Use Areas; brick or gravel surfaces; sidewalks; bike paths; patios; and any areas of concrete or asphalt or non-absorbent material.

**Incidental Sales and Services**

Incidental and accessory Sales and Services intended for the convenience of occupants of the district, including newsstands, coffee shops, snack shops, Indoor Recreational facilities, dry cleaning, shoe shining, Beauty Salon or spa Child Care Centers, Restaurants, and medical and Dental Offices.

**Indoor Recreation<sup>602</sup>**

An indoor establishment having as its principal or predominant use the offering of sporting-related, participatory or spectator entertainment, and which may or may not sell alcohol for consumption on the Premises. Sandwiches, light meals, snacks, and/or full service meals may be

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<sup>599</sup> New definition.

<sup>600</sup> From current Chapter 56 *Prohibited Land Uses*.

<sup>601</sup> Text added per Ord-13-04.

<sup>602</sup> New definition.

available for consumption on the Premises but are not the principal or predominant use of the establishment. Examples include, without limitation: court game facilities, swimming pools, skating rinks, health clubs, and bowling alleys.

**Industrial Plants, Manufacturing, Processing, Assembling<sup>603</sup>**

An establishment engaged in the manufacture or compounding process of raw materials. Such activities may include the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Examples include, but are not limited to: refining or initial Processing of raw materials; rolling, drawing, or extruding of metals; asphalt batching plants; sawmills; meat slaughtering or packing house; and manufacture or packaging of cement products, feed, fertilizer, flour, glue, paint, petroleum products, soap, turpentine, varnish, charcoal, or distilled products.

**Institution of Higher Learning, Private**

Private colleges, universities and other institutions of higher learning, offering courses in general, technical, or religious education.

**Institution of Higher Learning, Public<sup>604</sup>**

A post-secondary public college or university that awards associate, bachelor, or higher degrees.

**Invasive Species**

Botanical species included on the City's Invasive Species list that is maintained and updated in the Building department, as provided under this Code.

**Laboratory<sup>605</sup>**

A facility or area for conducting scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the Laboratory.

**Landmark Tree**

Any tree of 24-inch DBH or greater, or that is a type and DBH equal to or greater than shown on the Landmark Tree list in the land Development regulations, and that has a health and condition standard factor of over 50% based on the standards established by the Internal Society of Arboriculture. These standards consider the soundness of the trunk, the growth rate, the Structure of the tree, the presence of insects or disease, the crown Development, and the life expectancy. The definition of a Landmark Tree shall not include any tree identified as an Invasive Species on the City's Invasive Species list.

**Laundry, Cleaning, and Garment Service<sup>606</sup>**

An establishment where laundry or dry cleaning is dropped off and picked up by customers and that also includes on-site laundry and/or cleaning activities and garment tailoring services.

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<sup>603</sup> New definition. "Manufacturing plants" and "Manufacturing / Processing" have been merged with this use.

<sup>604</sup> New definition.

<sup>605</sup> New definition.

<sup>606</sup> New definition.

**Laundry and Dry Cleaning Plant**<sup>607</sup>

An industrial facility where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

**Lawn Extension**

The unimproved portion of any Public Right-of-Way.

**Library**<sup>608</sup>

A public facility for the use and loan, but not sale, of literary, musical, artistic, or reference materials.

**Licensee**<sup>609</sup>

As used in the context of Marijuana, a person holding a state operating license.

**Light Manufacturing**<sup>610</sup>

An Industrial, Manufacturing, Processing, or Assembling plant using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety Hazards outside of the Building or lot where such assembly, manufacturing, or processing takes place, where such processes are housed entirely within a Building.<sup>611</sup>

**Limits of Soil Disturbance**

A line marking the perimeter of the area within which there will be construction activity and any disturbance to the soils on a Site.

**Lot**

A parcel of land, not including a public or private street, that may be a platted Lot of a recorded subdivision, a site condominium Lot, or a parcel of land that meets the requirements of this Code.

**Lot Area**

The total horizontal land area in square feet within the Lot lines of a Lot, including land donated or to be donated to the City for public park purposes which is accepted by the City, and excluding any area of dedicated or proposed Public Right-of-Way and private street easements.<sup>612</sup>

**Lot, Corner**

A Lot or parcel of land abutting two or more streets at their intersection, or two parts of the same street forming an interior angle of less than 135 degrees.

**Lot Line**

The boundary of a Lot (see Figures 2 and 3).

**Front Lot Line**

The Lot Line separating a Lot from a street.

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<sup>607</sup> New definition.

<sup>608</sup> New definition.

<sup>609</sup> Added per Ord. 17-21.

<sup>610</sup> New definition. Revised for clarity since prior draft.

<sup>611</sup> Portions of definition moved to use-specific standard for this use.

<sup>612</sup> New definition based on current practice. Includes language from 5.24(3) and restores ORD 49-85.

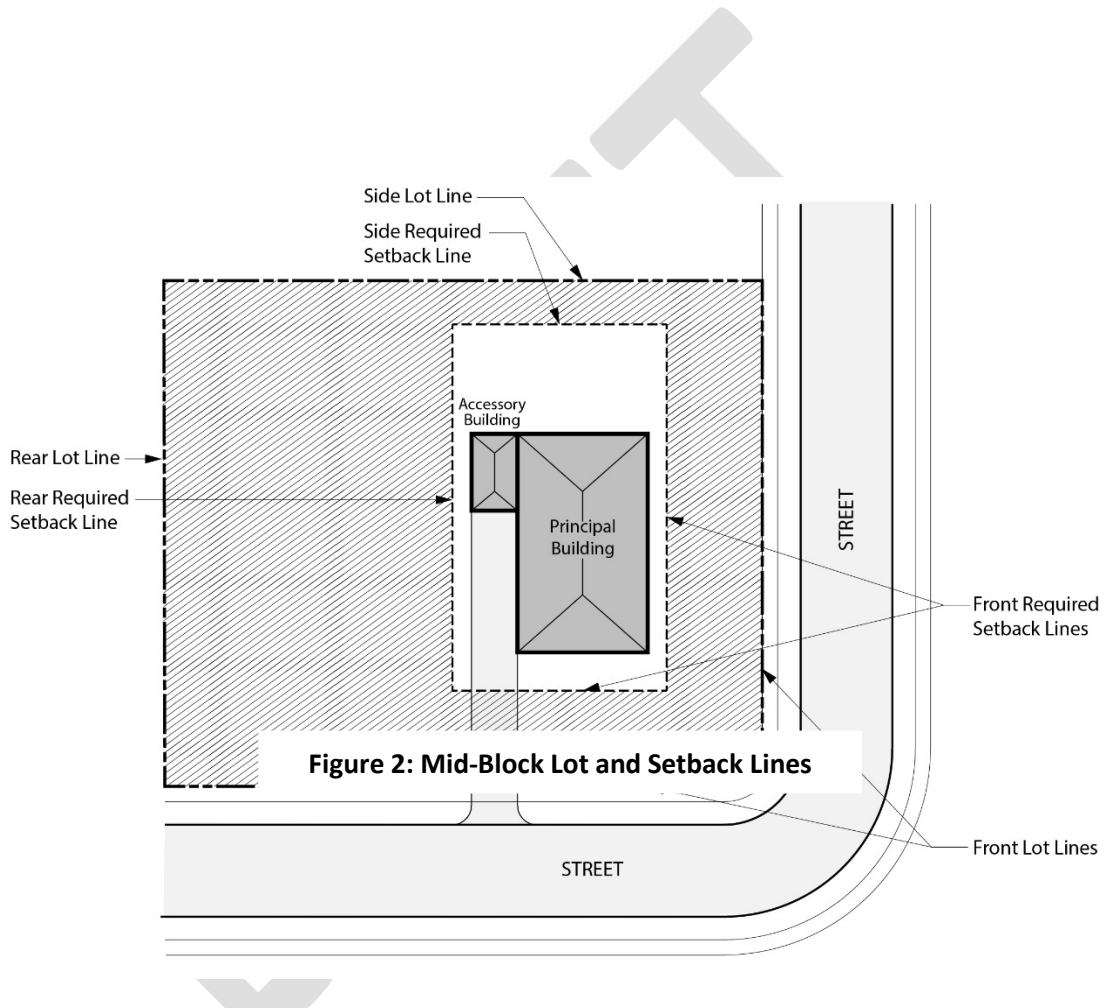


**Rear Lot Line**

The Lot Line opposite and most distant from the Front Lot Line; or in the case of irregularly-shaped Lots, a line ten feet in length entirely within the Lot, parallel to and at a maximum distance from the Front Lot Line.

**Side Lot Line**

Any Lot Line other than a Front or Rear Lot Line.



**Figure 3: Corner Lot and Setback Lines**

**Lot of Record**

A Lot for which the deed, prior to January 1, 1963, is on record with the Washtenaw County Register of Deeds and that exists as described in those records.

**Lot Width**

The length of a straight line drawn between the points where the Required Front Setback Line cuts the Side Lot Lines.

**Management/Maintenance Building<sup>613</sup>**

Use within a principal or Accessory Building for storage of maintenance supplies to be used on the Site of the Principal Use, or occupied by a Person for day-use for the purpose of managing a property, Building, or facility.

**Marihuana<sup>614</sup>**

That term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

**Marihuana Facility**

A location at which a license holder is licensed to operate under the MMFLA.

**Marihuana Plant**

Any plant of the species *Cannabis sativa* L.

**Marihuana-Infused Product**

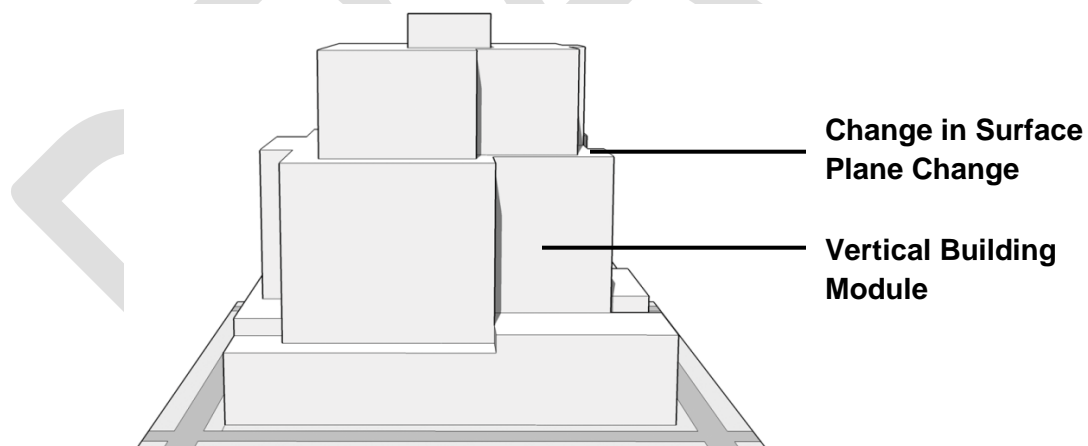
A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

**Marijuana**

-Marihuana, as defined in the Medical Marihuana Licensing Facilities Act. <sup>615</sup>

**Massing Articulation**

The way in which a Building wall surface is broken down into vertical modules, sub-parts or major elements, which are distinguished by changes in materials, texture or surface plane (see Figure 3).



**Figure 4: Massing Articulation**

**Maximum Diagonal<sup>616</sup>**

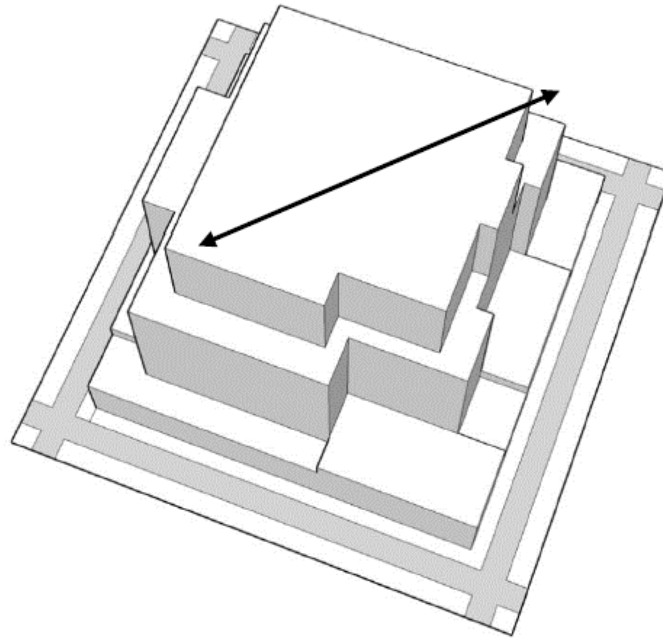
The longest horizontal dimension of a Building or Tower, as measured from corner to corner of a Story (see Figure 4).

<sup>613</sup> The Accessory Use “storage Maintenance Building, enclosed” has been merged with this use.

<sup>614</sup> Definitions for Marihuana, Marihuana Facility, Marihuana Plant, and Marihuana-Infused Product added per Ord. 17-21.

<sup>615</sup> Added per Ord. 21-17

<sup>616</sup> New definition and drawing from Ord. 15-07.



**Figure 5: Maximum Diagonal**

### **Medical Laboratory<sup>617</sup>**

A facility or area for conducting medical research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the Laboratory.

### ~~Medical Marijuana Cultivation Facility<sup>618</sup>~~

~~A Building or part of a Building where Marijuana plants are being grown in compliance with the Michigan Medical Marijuana Act, other than a Medical Marijuana Home Occupation or a Dwelling Unit in which Marijuana is being cultivated for a Qualifying Patient who resides in the Dwelling Unit as permitted under the Michigan Medical Marijuana Act.~~

### ~~Medical Marijuana Dispensary~~

~~A Building or part of a Building where one or more Primary Caregivers operate with the intent to transfer Marijuana between Primary Caregivers and/or Qualifying Patients, other than a Medical Marijuana Home Occupation or a Dwelling Unit in which the transfer of Marijuana occurs between a Primary Caregiver and Qualifying Patient who resides in the Dwelling Unit as permitted under the Michigan Medical Marijuana Act~~

### **Medical Marijuana Home Occupation**

An Accessory Use of a nonresidential nature that is conducted by a registered Primary Caregiver who resides in the dwelling and (A) is performed within a Single-Family Dwelling or within an Accessory Building to that Single-Family Dwelling; (B) is for the purpose of assisting one or

<sup>617</sup> New definition.

~~New definition from Ord. 10-97.~~

more registered Qualifying Patients with the Medical Use of Marijuana who do not reside in the dwelling and (C) complies with the MMMA.

**Medical or Dental Office**<sup>619</sup>

An establishment where patients who are not lodged overnight are admitted for examination and treatment by an individual physician or dentist or a group of physicians and dentists in practice together.

**Medical Use of Marijuana**

The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of Marijuana or paraphernalia relating to the administration of Marijuana to treat or alleviate a registered Qualifying Patient's debilitating medical condition or symptoms associated with the debilitating medical condition. <sup>620</sup>

**Message Unit**

Each of the following equals one Message Unit: a word, an abbreviation, a number, a symbol, a geometric shape, a Person's initials, or a website or electronic mail address. Letters or numbers four inches or smaller in height and punctuation marks are not counted in computing a number of Message Units. When a Business has a Sign with identical Sign messages facing opposite directions, only the Message Units on one side of each such pair shall be counted in computing the permitted number of Message Units.

**Michigan Medical Marijuana Act**<sup>621</sup>

The Michigan Medical Marijuana Act, as amended, MCL 333.26421 *et seq.*, also referred to as the MMMA.

**MMMA**

See Michigan Medical Marijuana Act.

**Mobile Home Park**<sup>622</sup>

A parcel of land under one ownership that has been planned and improved for the placement of two or more mobile homes for rental purposes for non-transient use.

**Multiple-Family Dwelling**<sup>623</sup>

A Building containing three or more Dwelling Units arranged either side by side or one above the other.

**Museum**<sup>624</sup>

A Building having public significance by reason of its Architecture or former use or occupancy or a Building serving as a repository for a collection of natural, scientific, or literary objects of interest, or works of art, and arranged and designed to be used by members of the public for viewing, with or without admission charge, and which may include as an Accessory Use the sale of goods that are related in topic with the primary purpose of the Museum.

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<sup>619</sup> New definition.

<sup>620</sup> From Ord. 10-37

<sup>621</sup> From Ord 10-37.

<sup>622</sup> New definition.

<sup>623</sup> New definition.

<sup>624</sup> New definition.

**Native or Prairie Plantings**

The exclusive use of plants in a landscape planting that were in the City prior to European settlement in Michigan.<sup>625</sup>

**Natural Feature**<sup>626</sup>

Any one or more of the following: Endangered Species Habitat, 100-Year Floodplain, Landmark Tree, Steep Slope, Watercourse, Wetland, and Woodland.

**Nit**

A measure of luminance equal to one candela per square meter.<sup>627</sup>

**Nonconforming Lot**<sup>628</sup>

A lawfully-established Lot that does not conform to the area or width regulations of this chapter.

**Nonconforming Structure**

A lawfully-established Building or Structure that does not conform to the area, height, or placement regulations of this chapter.

**Nonconforming Use**

A lawfully-established use of land that does not conform to the use regulations of this chapter.

**Nonconforming Sign**

A lawfully-established Sign that does not conform to the Sign regulations of this chapter.<sup>629</sup>

**Noncontiguous Wetland**

A Wetland that is not "contiguous" as defined by law for Wetland regulation.

**Non-Erosive Velocity**

A speed of water movement that is not conducive to the Development of Accelerated Soil Erosion.

**Nonprofit Corporation**<sup>630</sup>

An incorporated organization or group whose charter prohibits profit-making endeavors and which enjoys tax exemption privileges.

**Nursing Care Facility**<sup>631</sup>

Licensed facilities primarily engaged in providing shelter, food and intermediate or long term nursing and health related care for individuals, but not including Hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. This use includes Guest Houses for relatives of Hospital patients.

<sup>625</sup> New definition from Ord. 11-09.

<sup>626</sup> This definition was retained over a second and narrower definition reading "A of a Wetland, as defined by Chapter 60 of the City of Ann Arbor City Code of Ordinance, or a Watercourse, as defined in the Land Development Regulations, or both.

<sup>627</sup> Text added per ORD-13-04.

<sup>628</sup> New definition.

<sup>629</sup> This definition is being reviewed for consistency with ORD 13-04.

<sup>630</sup> New Definition.

<sup>631</sup> This use has been merged with "convalescent / nursing homes."

**Nursery School**

A daytime group facility that has as its main objective a Developmental program for pre-school children and whose staff meets the educational qualifications as established by the State of Michigan.

**Office, General**<sup>632</sup>

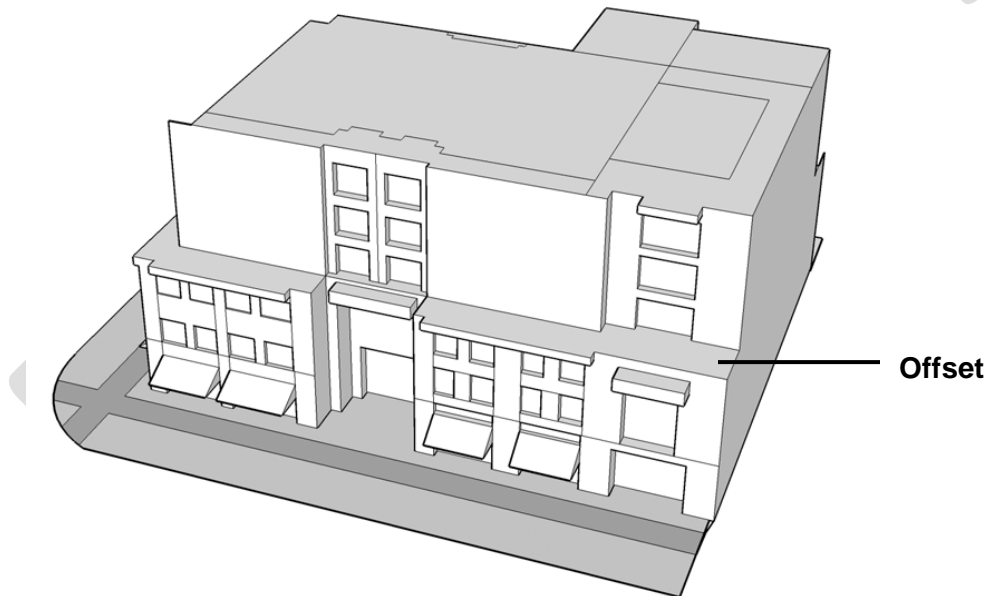
An establishment in which goods, wares or merchandise are not commercially created, displayed, stored, exchanged or sold, but is intended for the conduct or service by a commercial enterprise, or space for the conduct of professional or Business Service. Examples include, but are not limited to, Administrative, legal, accounting, management, advertising, general Business not listed elsewhere, consulting, and real estate Offices.

**Office, Administrative/Executive**<sup>633</sup>

Space for Executive, Administrative, management and support staff of the Principal Use, which is typically a Research/Development or industrial use.

**Offset**

The distance that the exterior wall of a Tower or upper stories of a Building is set back from the Streetwall or the exterior wall of the Base (see Figure 5). For purposes of this definition, unenclosed balconies are not considered to be part of the exterior wall of a Tower.



**Figure 6: Offset**

**Offspring**

Descendants, including natural children, adopted children, foster children and legal wards.

<sup>632</sup> Modified definition.

<sup>633</sup> New definition. Use was converted from a Principal Use to an Accessory Use.



**Oil and Gas Wells<sup>634</sup>**

Any well drilled, to be drilled, or used for the intended or actual production of natural oil, gas, or other hydrocarbons.

**Opacity, Fence**

The degree to which a Fence is impervious to rays of light. This condition will be measured by observation of any two square yard area of Fence between one foot above the ground level and the top of the Fence. The observation shall be from a direction perpendicular to the plane of the Fence.

**Opening**

The point of connection of the Driveway and Approach at the street Right-of-Way line. Its width and location shall be determined by extending the Driveway line to the street Right-of-Way line.

**Open Space**

The unenclosed portion of a Lot that is devoted to space for recreation, greenery, and household activities. Open Space area may include, but shall not be limited to, lawns, landscaping and gardens, wooded areas, sidewalks and walkways, active and passive recreational areas, unenclosed accessory Structures used for Recreational purposes, permanent or seasonal water surfaces, and protected natural areas. It shall not include areas covered by Parking Lots, Driveways, refuse facilities, or enclosed accessory Structures.

**Outdoor Display and Vending Machines<sup>635</sup>**

Display of General Merchandise sold by owner or operator of Principal Use and vending machines.

**Outdoor Recreation<sup>636</sup>**

Establishment providing Outdoor Recreational service, such as: miniature golf, golf driving ranges, commercial swimming pools, outdoor theaters and canoe liveries.

**Outdoor Residential Recreation Facility**

A private swimming club or an outdoor playground, volleyball, basketball or tennis court, or other similar Recreational facility, located in a residential Development, where equipment is permanently installed.

**Outdoor Sales, Temporary<sup>637</sup>**

Temporary display and sales of merchandise sold by the owner or operator of Principal Use.

**Outdoor Sales, Temporary by Others<sup>638</sup>**

Temporary Outdoor Sales or display of goods and services normally sold in the zoning district by a party other than the owner or operator of the Principal Use.

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<sup>634</sup> New definition.

<sup>635</sup> New definition.

<sup>636</sup> New definition.

<sup>637</sup> New definition. Formerly referred to as Seasonal Outdoor Sales.

<sup>638</sup> New definition.

**Outdoor Sales Permanent<sup>639</sup>**

Permanent Outdoor Sales or display of goods and services normally sold in the zoning district on the same Lot as the Principal Building.

**Outdoor Storage<sup>640</sup>**

The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours. This shall not include the display of vehicles or Equipment for sale in a sales Lot.

**Parking Attendant Building<sup>641</sup>**

A shelter to house the on-site attendant of a Parking Lot.

**Parking Lot<sup>642</sup>**

A total surface area on one parcel of 1200 or more square feet or five or more parking spaces used for parking and maneuvering of motor vehicles, which includes unenclosed Parking Structures..

**Parking Space**

A private area designed or used for the parking of a motor vehicle and properly accessed from a public street by a Driveway or private street.

**Parking Structure**

A Building or Structure used to store motor vehicles.<sup>643</sup>

**Parks, Recreation, and Open Space<sup>644</sup>**

Land owned or leased by the City or other public agency for use as a neighborhood park, an urban park or plaza, a Recreation facility, a historic site, a community-wide park, and/or a natural area as described in the Parks and Recreation Open Space Plan.

**Partially Nude**

Having any or all of the following bodily parts exposed: buttocks, genitals, pubic area, or female breasts.

**Permanent Open Space**

The portion of a Lot or Lots, exclusive of road rights-of-way, vehicle access and utility easements, and required storm water management, soil Erosion and Sedimentation control facilities, which is restricted by a recorded conservation easement or similar binding instrument. Permanent Open Space shall be intended for, but shall not be limited to, the preservation and conservation of undeveloped natural resources, Natural Features, scenic or wooded conditions, or naturally occurring water surfaces. It may also include undeveloped greenways of contiguous or linear Open Space providing habitats or corridors for wildlife, or links between Parks, nature reserves, cultural features, or historic sites for passive Recreation or conservation.

<sup>639</sup> Modified definition. "Outdoor sales, permanent" merged with this use.

<sup>640</sup> New definition.

<sup>641</sup> New definition.

<sup>642</sup> Clarified existing definition of Parking Lot to include five "or more" parking spaces.

<sup>643</sup> New definition.

<sup>644</sup> New definition.

**Permanent Soil Erosion and Sedimentation Control Measures**

Control measures that are installed or constructed to control soil Erosion and Sedimentation and that are maintained after Project Completion.

**PDSU**

The Ann Arbor Planning and Development Services Unit.<sup>645</sup>

**Personal Services<sup>646</sup>**

An establishment that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services. Examples include but are not limited to; catering establishments, custom dressmaking, film Processing, licensed massage salons, optical and optician services, service and repair establishments, sun tan centers, bicycle rental, and small craft rental. This definition does not include Laundry, Cleaning and GarmentServices.

**Phase**

A portion of a larger Development that contains independently adequate (1) pedestrian and vehicular access, (2) sanitary, water and storm water conveyance and management systems, and (3) required Site improvements such as, but not limited to, landscaping, Open Space and parking and is specifically identified as a Phase on an approved plan.

**Pilot Manufacturing<sup>647</sup>**

The production of a product, process, or piece of Equipment on a simulated factory basis, and limited to Pilot Manufacturing of engineering, Laboratory, scientific, electronic and research instruments and associated Equipment.

**Pinball Parlor**

A pinball facility meeting all requirements of Chapter 87, Section 7:327.

**Planning Manager**

The Manager of the PDSU.

**Plant<sup>648</sup>**

Any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

**Power and Fuel Rights-of-Way<sup>649</sup>**

All lines and facilities related to the provision, collection, distribution, and transmission of Power and Fuel Rights-of-Way.

**Premises**

The contiguous land in the same ownership or control that is not divided by a public street or ~~alley~~Alley.<sup>650</sup>

<sup>645</sup> This and the following are new definitions.

<sup>646</sup> New definition.

<sup>647</sup> New definition.

<sup>648</sup> Added per Ord. 17-21.

<sup>649</sup> New definition based on definition of "Transportation, communications, power, and fuel rights-of-way."

<sup>650</sup> Reference to ~~alley~~Alley added to reflect current interpretation.

**Primary Caregiver<sup>651</sup>**

As used in the context of Marijuana, a person who is at least 21 years old and who has agreed to assist with a patient's Medical Use of Marijuana and who has never been convicted of a felony involving illegal drugs.

**Principal Activity**

A use accounting for more than 20% of a Business' stock in trade, display space, Floor space, live entertainment time or movie display time per year.

**Principal Use**

The primary use of any Lot.

**Principal Building**

A Building or group of Buildings in which the main or Principal Use is conducted on a Lot.

**Prior Zoning and Development Regulations<sup>652</sup>**

The provisions of each of those chapters of the Code listed in Section 5.9.1 as they existed immediately prior to the adoption of this chapter.

**Processor<sup>653</sup>**

As used in the context of Marijuana, a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

**Professional Engineer**

A person licensed by the State of Michigan to engage in the practice of Professional Engineering as defined by Act 299 of the Public Acts of 1980 (as amended), being Section 2001 of the Michigan Compiled Laws of 1979.

**Project Completion<sup>654</sup>**

The point at which all permitted improvements for a project have been completed consistent with all permit approvals, as well as with any approved amendments or modifications, and for which all final inspections have been made and approved by the City.

**Provisioning Center<sup>655</sup>**

A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. This use includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a Provisioning

**PSA**

Public Services Area.

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<sup>651</sup> New definition from Ord. 10-37.

<sup>652</sup> New definition required by the integration of the various regulations into this UDC.

<sup>653</sup> Added per Ord. 17-21.

<sup>654</sup> New definition.

<sup>655</sup> Added per Ortd. 17-21.

**Public Right-of-Way or Right-of-Way<sup>656</sup>**

For purposes of this chapter only, all public streets, ~~highways~~Highways, ~~sidewalks~~Sidewalks and ~~alleys~~Alleys.

**Public Utility**

Private enterprise with a franchise for providing a public service.

**PUD Development Program**

A written document or portion of a document describing the objectives, purposes, and beneficial effect for the City proposed to be achieved by the PUD zoning district.

**Qualifying Patient<sup>657</sup>**

As used in the context of Marijuana, a person who has been diagnosed by a physician as having a debilitating medical condition.

**Railroad and Public Transportation Rights-of-Way<sup>658</sup>**

A public or private Right-of-Way on which tracks for trains are constructed.

**Religious Assembly<sup>659</sup>**

A facility or area for people to gather together for public worship, religious training, or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other Structure, together with its accessory Structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory Uses may include religious education classes, meeting rooms, and childcare provided for persons while they are attending assembly functions.

**Research/Development<sup>660</sup>**

A Structure or complex of Structures designed or used for research Development intended to advance knowledge and develop technology related to academia or industry and similar fields of endeavor but not facilities for the manufacture or sale of products, except as incidental to the primary purpose of the Laboratory.

**Residential Builders, General Contractors Trade Contractors<sup>661</sup>**

Individuals or Businesses offering services related to construction of Buildings and Development of land such as residential Trade Contractors and home builders, highway and street, heavy construction and general Buildings.

**Residential Occupancy<sup>662</sup>**

The use of land or Buildings by a tenant(s) for overnight use.

**Restaurant, Bar, Food Service<sup>663</sup>**

An area or Structure in which the principal Business is the preparation and sale of foods and beverages to the customer in a ready-to-consume state. Operations may or may not include outdoor seating areas or outdoor Food Service, but the operation does not include a Drive-

<sup>656</sup> Definition from previous Sign regulations made generally applicable to the UDC. Text revised per ORD-13-04.

<sup>657</sup> New definition from Ord. 10-37.

<sup>658</sup> New definition.

<sup>659</sup> A combination of the current definitions for “church” and “Religious Assembly,” as is common in most modern codes.

<sup>660</sup> New definition.

<sup>661</sup> New definition.

<sup>662</sup> New definition.

<sup>663</sup> New definition.

Through Facility, or an establishment primarily devoted to the serving alcoholic beverages by the drink and in which the service of the food is only incidental to the consumption of such alcoholic beverages.

**Retail Center**

A group of predominantly commercial establishments managed as a total entity.

**Retail Sales, General Merchandise**<sup>664</sup>

A facility or area for the retail sale of General Merchandise or food to the general public for direct consumption and not for Wholesale. Typical General Merchandise includes clothing and other apparel; Equipment for hobbies or sports; gifts; flowers and household plants; auto parts without service, dry goods; groceries and convenience and specialty foods; toys; furniture; books and Stationery; pets; drugs; hardware; and similar consumer goods. This use does not include other uses defined separately in this Article VIII..

**Required Setback (including Front, Side, and Rear)**

The minimum or maximum distance specified by this chapter that shall be provided between a Lot Line and a Structure.

**Required Setback Area**<sup>665</sup> (including Front, Side and Rear)

The portion of a Lot between the Required Setback Line and the Lot Line.

**Required Setback Line (including Front, Side, and Rear)**

A line parallel to a Lot Line representing the minimum Required Setback from that Lot Line and, together with the Lot Line, defines the Setback Area.

**Roof**<sup>666</sup>

The cover of any Building, including the eaves and similar projections.

**Rooming House**

See Group Housing.

**Rules of the WCWRC**

The Rules of the Washtenaw County Water Resources Commissioner, Procedures and design Criteria for Storm Water Management Systems, dated May 15, 2000.

**Safety Compliance Facility**<sup>667</sup>

A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility

**School, Private**<sup>668</sup>

A private institution intended for the purpose of elementary or secondary education, but also including dance schools, and art schools, but not trade schools, and which does not secure the major part of its funding from public sources.

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<sup>664</sup> New definition.

<sup>665</sup> New definition.

<sup>666</sup> New definition.

<sup>667</sup> Added per Ord. 17-21.

<sup>668</sup> New definition.



**School, Public**<sup>669</sup>

A public institution intended for the purposes elementary or secondary education, including Public School academies (commonly known as charter schools) and similar institutions as recognized by state regulations.

**Secure Transporter**<sup>670</sup>

A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

**Security**

For non-Warranty purposes, cash or certified check or money order made payable to the City. For Warranty purposes, surety bond, cash or certified check or money order made payable to the City.

**Sediment**

Any solid particulate matter, mineral or organic, that has been deposited in water, is in suspension in water, is being transported, or has been moved from its site of origin by the process of soil Erosion.

**Sign**

A name, identification, description, display, light, balloon, banner, or illustration that is affixed to, or painted, or otherwise located or set upon or in a Building, Structure or piece of land and that communicates information or directs attention to an object, product, place, activity, Person, institution, organization, or Business and that is visible from any Public Right-of-Way, Parks, Recreation, and Open Space, or other public property. The definition includes any support Structure, lighting, or other accessory features.<sup>671</sup> The definition does not include goods displayed in a window. The definition does not include religious symbols or paintings that do not display lettering and do not advertise a Business, product or service.<sup>672</sup>

**Sign Area (or other reference to square measure)**

The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing representation, emblem, or any figure of similar character together with any frame or other material or other color forming an integral part of the display or used to differentiate it from the background against which it is placed, excluding the necessary supports or uprights on which such Sign is placed. Where a Sign has two or more faces, the area of all faces shall be included in determining the area of the Sign. Where a Sign consists solely of lettering painted or mounted on a wall, any blank area which is more than 10% of the area of the Sign as otherwise computed shall be disregarded.

**Sign, Exterior**

Any Sign other than an Interior Sign.

**Sign, Interior**

A Sign within the walls of a Building.

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<sup>669</sup> New definition.

<sup>670</sup> Added per Ord. 17-21.

<sup>671</sup> Deleted redundant language regarding interior signs.

<sup>672</sup> Revised to incorporate edits from ORD-13-04

**Sign, Illuminated**

A Sign lighted by any type of artificial light, whether emitted from the Sign or reflected off the Sign.<sup>673</sup>

**Sign, Off-Premises**

A Sign other than an On-Premises Sign.

**Sign, On-Premises**

A Sign that advertises only goods, services, facilities, events, or attractions on the Premises where the Sign is located.

**Sign, Political**

A Sign whose message relates to a candidate for political Office, or to a political party, or to a political issue, or an ideological opinion.

**Sign, Temporary**

A Sign intended for a limited period of display.

**Site<sup>674</sup>**

For purposes of applying site plan review and approval standards, one or more Lots that have been identified on a plan for existing or proposed Development.

For purposes of applying Grading and drainage standards, and Lot or parcel of land or combination of contiguous Lots or parcels of land where Grading is performed or permitted.

For purposes of applying steets and Curb Cut standards, all contiguous land under the same ownership or one platted Lot in the case of land for which a recorded plat exists.

**Soil Erosion Control Facility**

A facility placed or constructed as necessary for the successful control or abatement of Accelerated Soil Erosion.

**Solar Collector Surface<sup>675</sup>**

Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface, is considered the front of the SES, and does not include frames, supports, and mounting hardware.

**Solar Energy**

Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

**Solar Energy System (SES)**

A system (including solar collector surface and ancillary solar equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or

<sup>673</sup> New definition.

<sup>674</sup> New definition for the purpose of site plan review .Definition from Sec. 4:20(1)(d) *Streets* modified to be more comprehensive and to include the content from the deleted "Site" definition from Ch. 63, *Storm Water Management*, which read "Any Lot or parcel of land or combination of contiguous Lots or parcels of land where Grading is performed or permitted." This definition will be revised to better distinguish between different uses of this term in the context of (1) Curb Cuts/street access, (2) Grading, and (3) site plan approvals.

<sup>675</sup> Six definitions related to solar energy and Solar Energy Systems were added pursuant to Ord. 18-01.

heating water. Solar Energy Systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems.

**SES, Personal-Scale**

A ground-mounted or building-mounted SES that is accessory to the principal residential use on the parcel. The sale and distribution of excess available energy to an authorized public utility for distribution, if permitted, shall be incidental to this type of system, and not its primary purpose.

**SES, Ground-Mounted**

A freestanding solar energy system that is not attached to and is separate from any building on the same parcel of land on which the solar energy system is located.

**SES, Building-Mounted**

A solar energy system that is attached to a building on a parcel as the principal method of physical support.

**Special Event Sales<sup>676</sup>**

A temporary outdoor use on private or public property that is approved in conjunction with a special event designated by City Council resolution and often subject to special conditions that address the duration and impacts of the special event. Examples include, but are not limited to, art fairs, home football games at the University of Michigan Stadium, ~~sidewalk~~ Sidewalk sales, festivals, and carnivals.

**Special Exception Use**

A use permitted in a particular zoning district if it conforms to specific standards outlined in this chapter.

**Stabilization**

The establishment of vegetation or the proper placement, Grading, or covering of soil to ensure its resistance to soil Erosion, sliding, or other earth movement.

**State Operating License<sup>677</sup>**

As used in the context of Marijuana, or unless the context requires a different meaning, "license" means a license that is issued under the Medical Marihuana Facilities Licensing Act that allows the licensee to operate as one of the following, specified in the license: a Grower; a Processor; a Secure Transporter; a Provisioning Center; or a Safety Compliance Facility.

**Steep Slope**

A naturally occurring landform with a vertical change in elevation of ten feet or more, a slope of 20% or more, and a length of 50 feet or more measured parallel to the contour lines.

**Story**

That portion of a Building included between the surface of any Floor and the surface of the Floor next above it, or if there be no Floor above it, then the space between the Floor and the ceiling next above it and including those basements used for the Principal Use.

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<sup>676</sup> New definition.

<sup>677</sup> Added per Ord. 17-21.

**Stockpiling**

The depositing of earth materials or rock for temporary periods of time for the purpose of facilitating construction operations.

**Storm Water Management System**

A system that is designed and constructed or implemented to control runoff, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overland flow, environmental degradation, and water pollution or otherwise affect the quality and quantity of the discharges. The Storm Water Management System includes but is not limited to, any of the following: conduits and appurtenance features, canals, channels, ditches, streams, culverts, streets, storm sewers, detention basins, infiltration devices, swales, and pumping Stations.

**Storm Water Retention/Detention Basin**

An artificial impoundment constructed in upland that serves to restrain or filter storm water runoff.

**Street Frontage**

The length of a Premises abutting one or more streets.<sup>678</sup>

**Streetwall**

The exterior face of a Building that fronts a street between the street Grade and the Streetwall Height (see Figure 6).



**Figure 7: Streetwall and Streetwall Height**

**Streetwall Height**

The height of the Streetwall portion of the Building, as measured in stories above the street Grade (see Figure 6).

**Stripping**

Any activity that removes or significantly disturbs the vegetative surface cover, including Clearing and Grubbing operations.

<sup>678</sup> "Property" revised to "Premises" to reflect current interpretation.

**Structural Amenity**

When used in the context of landscaping, a non-plant element in the landscape that adds to the public benefit of the proposed landscape plan, such as outdoor art, benches, sculptural solar lighting, water features, and similar items.<sup>679</sup>

**Structure**

A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

**Student Cooperative Housing**

A facility for housing students who largely perform their own household maintenance and meal preparation and who have a vote in the operation, maintenance and management of their household affairs. Such housing must be an organized legal entity, such as a corporation, and recognized by the national association for student cooperatives.<sup>680</sup>

**Superintendent**

The Superintendent of the department of Parks and Recreation.

**Supplemental Regulations**

A written document that contains the zoning and site Development requirements that, once approved, become part of the ordinance establishing the PUD zoning district, and, in addition to current City regulations and ordinances, shall be in effect for the district.

**Temporary Soil Erosion and Sedimentation Control Measures**

Interim control measures that are installed or constructed to control soil Erosion and Sedimentation and that are not maintained after Project Completion.

**Theatre, Enclosed<sup>681</sup>**

An indoor establishment for the production, display, or transmission of entertainment, such as radio and television studios, excluding transmission and receiving Towers, assembly halls, concert hall or similar places of assembly or entertainment.

**Tower**

Any portion of the Building that rises above the Base. Towers often include a lower Tower section and an upper Tower section (see Figure 1).

**Transit Center, Station, or Depot**

A Building, facility, or area designed and used for Persons using or changing transportation modes, or for the storage or parking of motor-driven buses.

**Transportation Facilities<sup>682</sup>**

Municipal Airports, rail Stations, bus Stations, bicycle centers, auto and bicycle parking facilities, and similar facilities.

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<sup>679</sup> New definition from Ord. 11-09.

<sup>680</sup> Previous definition outdated because University of Michigan no longer registers student cooperatives.

<sup>681</sup> New definition.

<sup>682</sup> Added per Ord. 10-17.

**Vehicular Use Area**

Any area of 1,200 square feet or more of a property that is not located within an enclosed Structure and that is devoted to a use by or for motor vehicles, including parking (accessory or non-accessory) or storage of Automobiles, trucks or other vehicles, loading areas, service areas and drives. The area within a carport is considered part of the Vehicular Use Area. Any paved area designed to be used solely for access between the street and the Vehicular Use Area shall not be considered part of the Vehicular Use Area.<sup>683</sup>

**Vehicle Wash<sup>684</sup>**

The use of a Site for washing and cleaning of passenger vehicles, Recreational vehicles, and other light-duty Equipment, only by automatic, coin-operated, or moving line wash facilities.

**Veterinary, Kennels and Animal Boarding<sup>685</sup>**

A facility for the diagnosis, treatment, or Hospitalization of animals, and including the incidental boarding or breeding of animals or any facility, public or private, where domesticated animals are temporarily boarded, groomed, and sold for compensation. This use also includes public facilities for the temporary impoundment of animals, and facilities for the temporary boarding of animals during the day or overnight.

**Warehousing and Indoor Storage**

An establishment in an enclosed Building primarily engaged the storing raw materials, goods, or property, or in the sale or distribution of goods and materials in large quantity to retailers, or other Businesses for Resale or distribution to individual or Business customers.<sup>686</sup>This shall not include Heavy Manufacturing, resource extraction, bulk storage of Hazardous materials, or scrap or salvage operations.

**Warranty**

Promise that all defects in or failures of materials or installation that appear or are identified, including any damage resulting from the defects, shall be corrected at the expense of the promisor.

**Watercourse**

Any naturally occurring open waterway, river, stream, creek, lake, or any body of surface water having well-defined banks and bed, whether continually or intermittently flowing.

**WCWRC**

The Washtenaw County Water Resources Commissioner, or the office of the Commissioner.<sup>687</sup>

**Wetland**

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

**Wetland and Watercourse Buffer Area**

The minimum area adjacent to Wetlands and Watercourses, as provided under this chapter.

<sup>683</sup> Includes revised language from Ord. 11-09.

<sup>684</sup> New definition.

<sup>685</sup> New definition.

<sup>686</sup> New definition. In the ORL district, language also includes materials “produced or” used on the Premises.

<sup>687</sup> New definition.



**Wetland Use Permit**

The City approval required for activities regulated by this chapter, issued by the CSA Administrator.

**Wholesale, Resale, Building Material and Supplies<sup>688</sup>**

An establishment in an enclosed Building primarily engaged in the sale or distribution of goods and materials in large quantity to retailers, or other Businesses for Resale or distribution to individual or Business customers. This shall not include Heavy Manufacturing, resource extraction, bulk storage of Hazardous materials, or scrap or salvage operations.

**Wireless Communications Antenna**

An antenna that is an Accessory Use or attached to a Wireless Communication Facility and is designed to transmit or receive communications as authorized by the Federal Communications Commission, excluding ancillary antennas such as citizen band antennas, ham and amateur radios, fleet type communications, satellite dishes, and personal television receiving antennas.

**Wireless Communications Facility**

Includes Wireless Communications Antennas or Towers and all unstaffed facilities related to the use of the radio frequency spectrum for the purposes of transmitting or receiving Signals, usually consisting of an Equipment shelter or cabinet, support Structure and/or other transmission and reception devices. This definition excludes ancillary antennas such as citizen band antennas, ham and amateur radios, fleet type communications, satellite dishes, and personal television receiving antennas.

**Wireless Communications Tower**

A Tower, including, but not limited to, self-supporting lattice, guyed, or monopole that elevates the Wireless Communications Antenna and related transmission or receiving Equipment and may include accessory transmission or receiving Equipment.

**Woodland**

A forested area of 1/2 acre or more with a gross basal area of 30 square feet per 1/2 acre, containing 20 trees per 1/2 acre greater than 6 inches in Diameter at Breast Height (DBH), or a plantation of 1/2 acre or more with a minimum average DBH of 10 inches. The Critical Root Zone of all trees in the perimeter of the forested area or plantation defines the area of a Woodland.

**Woody Plants**

Trees two inches or greater in diameter measured four feet above the existing Grade, shrubs two inches or greater in diameter measured at the existing Grade (ground level), or trees and shrubs ten feet or greater in height.

**Xeriscaping**

A combination of landscaping features and techniques that in aggregate reduce the demand for, and consumption of, water.

**Yard<sup>689</sup>****Front Yard**

The portion of a Lot between each Front Lot Line and the Established Front Building Line facing that Front Lot Line, as extended to cut the Side Lot Lines. All area directly

<sup>688</sup> New definition.

<sup>689</sup> Formerly Required Open Space.

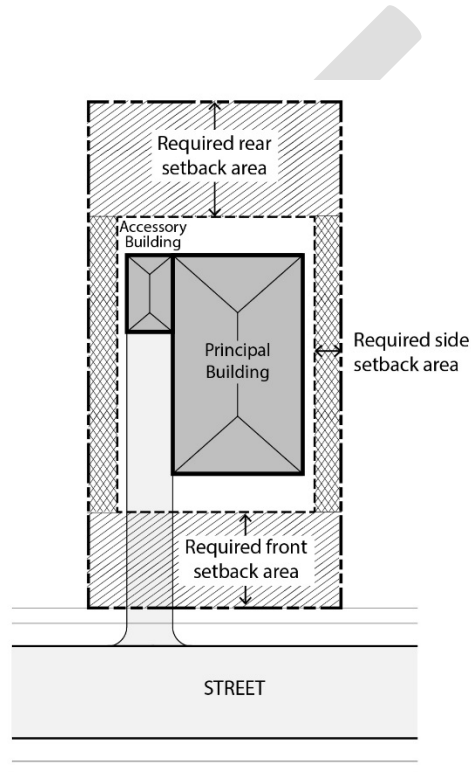
between the any façade of the Principal Building facing a Front Lot Line and that Front Lot Line shall also be considered a Front Yard (see Figures 8 and 9).

### Rear Yard

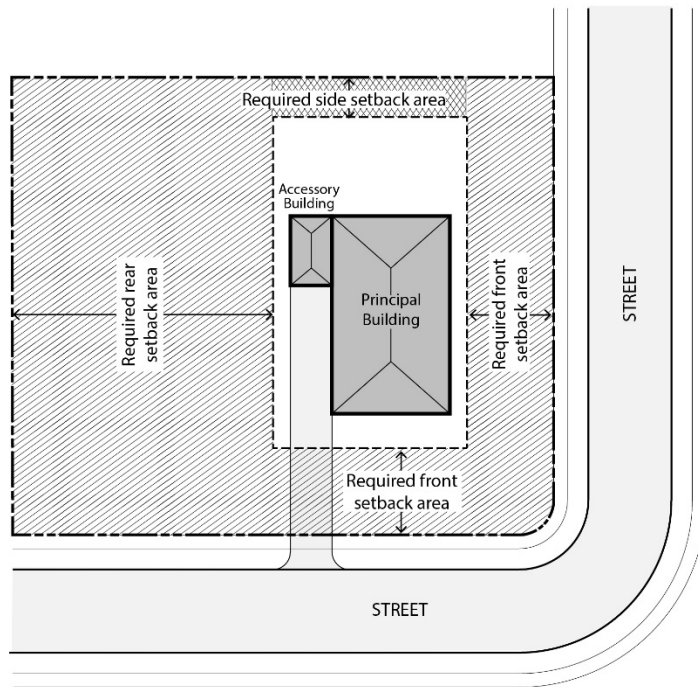
The portion of a Lot between a Rear Lot Line and the Established Rear Building Line, as extended to cut the Side Lot Lines (see Figures 8 and 9).

### Side Yard

The portion of a Lot between a Side Lot Line and the Established Side Building Line that is not included in the Front Yard or Rear Yard (see Figures 8 and 9).



**Figure 8: Mid-Block Lot Setback Areas**



**Figure 9: Corner Lot Setback Areas**

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