

ORDINANCE NO. ORD-21-xx

AN ORDINANCE TO AMEND SECTION 5.29.6 SITE PLANS AND SECTION 5.22 STORM WATER MANAGEMENT AND SOIL EROSION of CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Section 5.29.6 Site Plans of Chapter 55 Unified Development Code be Amended as follows:

~~5.29.6~~

~~5.29.75.29.6~~ Site Plans

A. Applicability and Approving Body

- ~~1. Table 5.29-1 Establishes the combination of use and development activity for which an approved site plan shall be required before applicable permits are issued to construct, install, or place any Building, Structure, or site improvement, or prior to the removal or disturbance of any Natural Feature, in accordance with the requirements and standards in this chapter.~~
- ~~2. Any development activity not included in Table 5.29-1 below shall be conducted through applicable City permits and regulations, without the necessity of a site plan. 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.~~

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:
  - ~~a. Signs.~~
  - ~~b. Retaining walls, Fences, buffer walls.~~~~

- ~~e. Curb carts for solid waste; and dumpsters used for commercial recyclables and related screening that encloses up to 100 square feet.~~
- ~~d. Fire escapes.~~
- ~~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.~~
- ~~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.~~
- ~~k. Awning of any size, or Canopy or similar accessory Structure for shade up to 240 square feet, when over existing Impervious Surface.~~

~~A. Approving Body~~

~~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 approval as provided below.~~

~~2. Planning Commission~~

~~Planning Commission approval of a site plan is required for one or more of the following:~~

- ~~l. Accessory Buildings and Structures exceeding the size of those allowed with administrative 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.~~
- ~~m. Cooling, heating or mechanical equipment occupying a ground area exceeding the regulations of Section h.~~
- ~~n. Outdoor storage areas, permanent outdoor sales areas.~~

- o. Paving an existing Parking Lot, increasing the area in square feet of a Vehicular Use Area, or construction of a new access road or Driveway.
- p. Modifications to an approved Natural Features protection plan or Natural Features mitigation plan that are not covered under the Site Plan for administrative approval requirements.
- q. Any minor change listed in Section 5.20.6B.3 when there is no approved site plan on file.

**g. Administrative Approval**

Administrative approval of a site plan is required for minor changes to an approved site plan including one or more of the following:

- r. Building additions of 10% of the existing Floor Area, up to 10,000 square feet.
- s. 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.
- t. 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.
- u. Change to or addition of Development phasing lines.
- v. Change in Building Height that does not create new Floor Area.
- w. Relocation of sidewalks.
- x. 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.
- y. Relocation of refuse collection stations.
- z. 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.
- aa. Decrease in Building size.
- bb. Moving a Building no more than ten feet or 5% of the distance to the closest Lot Line, whichever is smaller.
- cc. Relocation or addition of no more than 50% of the approved storm water detention capacity.
- dd. 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.

- ~~ee. — 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.~~
- ~~ff. — 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.~~
- ~~gg. — Addition of carports over existing legal Parking Spaces.~~
- ~~hh. — 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.~~
- ~~ii. — Addition of Canopy Structures over Vehicular Use Areas.~~

<b>Table 5.29-1</b>	<b>Use</b>			
Find Use and Activity to determine review required:  M = Site Plan Approval by Planning Manager P = Site Plan Approval by Planning Commission <sup>[1]</sup> C = Site Plan Approval by City Council n/a = Site Plan not Required	<u>1-4 Dwelling Units - Residential</u>	<u>5 or 6 dwelling Units - Residential</u>	<u>7+ Dwelling Units - Residential</u>	<u>All Other Uses (e.g., group housing, commercial, office, research, mixed-use)</u>
<b>Activity Accompanying Legislative Action</b>	-	-	-	-
<u>Any Site Plan, Area Plan, or Concept Plan accompanying a Rezoning Petition</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Any Site Plan accompanying a Special Exception Use Permit Petition</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>P</u>
<b>Work/Modifications on Existing Buildings</b>				
<u>Additions greater than 300 square feet, but less than 10% of the existing Floor Area (maximum 10,000 square feet)</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Additions greater than 10% of the existing floor area, or 10,000 square feet</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<u>Interior construction that results in a higher number of dwelling units</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<b>New Construction</b>				
<u>Construction of Residential Building(s) in Residential Districts</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>N/A</u>
<u>Construction of Residential Building(s) in Mixed-Use or Special Purpose Districts</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>n/a</u>
<u>Construction of Mixed-Use or Non-Residential Buildings</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>P</u>
<b>Other Site Improvements</b>				
<u>Sidewalks</u>				
<u>Removal of Installed Sidewalks</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<u>Parking</u>				
<u>Rearrangement or reconfiguration of the parking stalls and aisles within the existing limits of Vehicular Use Area</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Paving an existing Parking Lot, increasing the area in square feet of a Vehicular Use Area</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<u>Construction of new access road or Driveway, or relocation of existing</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<u>Construction of new private street</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<b>Accessory Buildings and Structures</b>				

<u>Any Accessory Building, Structure, Canopy, equipment or similar Structure greater than 300 square feet, not specifically listed below</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>P</u>
<u>Outdoor deck, patio, plaza, or combination up to 1,000 total square feet</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Outdoor deck, patio, plaza, or combination greater than 1,000 square feet</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<u>Outdoor Storage Areas; Permanent Outdoor Sales Area</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<b>Natural Features</b>				
<u>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.</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Change in species or placement of plant materials 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.</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>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</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Removal of a tree identified on a site plan as a Landmark Tree to be saved, but recognized as an Invasive Species at the time of application for Planning Manager approval.</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Modifications to an approved Natural Features protection plan or Natural Features mitigation plan that are not covered under the Site Plan for Planning Manager Approval.</u>	<u>n/a</u>	<u>M</u>	<u>P</u>	<u>P</u>
<b>Revisions, Extensions, Site Plan Administrative Actions</b>				
<u>Change to, or addition of Development phasing lines.</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>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.</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Moving a Building no more than ten feet (Under Construction)</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Relocation or addition of no more than 50% of the approved storm water detention capacity.</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>
<u>Addition/Reconfiguration of Sidewalks on Approved Plan (Under Construction)</u>	<u>n/a</u>	<u>M</u>	<u>M</u>	<u>M</u>

<u>Change in species or placement of plant materials 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 (Under Construction).</u>	n/a	M	M	M
<u>[1] Any proposed development that is modified, constructed, and maintained to result in a Development without any natural gas connection and use, and provides a minimum of 60% coverage of rooftop with the installation of solar energy systems, or equivalent installation, operation, and maintenance on site shall require M – Planning Manager approval.</u>				

**Commented [LB1]:** New language that would “reduce” level of approval and corresponding process from Planning Commission to Planning Manager if electrification and solar standards are met.

## **B. Approval Procedures**

### **4.1. Preliminary, General Procedures**

~~jj.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 **Error! Reference source not found.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 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 a site plan for ~~administrative-Planning Manager~~ approval pursuant to Subsection **Error! Reference source not found.5.30.1**, shall make a report and recommendation on the proposed site plan to the Planning Commission.

~~kk.b.~~ Before submitting a petition, the Applicant shall contact the Planning Manager to schedule a pre-petition conference. At the conference the Applicant shall present the proposed conceptual site plan and development program. The staff may provide the Applicant with their comments regarding compliance with required site plan information, the appropriate approving body, and the type of citizen participation required consistent with Section **Error! Reference source not found.5.28.4**.

~~ll.c.~~ Before submitting a site plan application for formal review, the Applicant shall comply with the citizen participation requirements in Section **Error! Reference source not found.5.28.4**.

### **5.2. City Council Approval**

~~For development activity described in Table 5.29-1 for City Council approval,~~  
~~¶~~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) 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.



### 6.3. Planning Commission Approval

~~For development activity described in Table 5.29-1 for Planning Commission approval, the Planning Commission shall review and approve (with or without conditions) 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 the minor modifications, shall be considered in the manner provided for site plans for City Council approval. 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 Planning Commission or the site plan approval shall lapse. Any changes to a condition placed on the site plan by Planning Commission shall require Planning Commission approval.~~

**Commented [LB2]:** This modification would eliminate the public hearing requirement of Planning Commission approval.

### 7.4. Administrative Planning Manager/Administrative Approval

~~The For development activity described in Table 5.29-1 for Planning Manager approval, the Planning Manager shall review and approve (with or without conditions) or deny the site plan. 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. Planning Manager approval of site plans, or amendments to site plans previously approved by City Council or Planning Commission shall be reviewed and approved (with or without conditions) or denied, so long as the scope of proposed modification is consistent with the authority granted in Table 5.29-1.~~

## **B. Criteria for Site Plan Approval**

~~5.1. The City Council, Planning Commission or City Council Planning Manager 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 ~~Error! Reference source not found.~~ 5.29.6F.
- 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.~~
6. ~~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. 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 development program, the conceptual PUD plan or the supplemental regulations.~~

~~7. The following restrictions shall also apply to Administrative Approval of a PUD site plan:~~

~~d. 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.c. 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.~~

**C. 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.
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.
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. 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.
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.

**D. Criteria for Review of a Traffic Impact Analysis**

5. The traffic and/or parking impact analysis shall be reviewed by the Public Services Area for completeness and accuracy.

6. 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.

**E. 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.

Section 2. ~~OPTION A – EMPHASIZES REDUCED PROCESS/COST~~ That Section 5.22 Storm Water Management and Soil Erosion of Chapter 55 Unified Development Code be Amended as follows:

**5.22 Storm Water Management and Soil Erosion**

No Person shall conduct activity for which a permit under this Section ~~Error! Reference source not found.5.22~~ or related Section ~~Error! Reference source not found.5.22.9~~ is required without first having obtained the required permit. After the permit has been obtained, no Person shall conduct any activity in violation of any condition of that permit, or without having the permit and plans on Site. Throughout this Section, the Washtenaw County Water Resources Commissioner, and the Commissioner’s office, are referred to as “WCWRC”.

**5.22.1 Purpose**

- 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 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 **Error! Reference source not found.**~~5.99~~ 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~~**Single to Four Dwelling Unit Residential Storm Water Management**

A Site with ~~one Single or Two Family~~**up to four** residential dwelling **units**, 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.

**Commented [LB3]:** Among impacts, this change would shift current 3 or 4 family development from compliance with 5,000, 10,000, or 15,000 square feet of impervious surface standards to only require first flush retention/infiltration for newly added impervious area.

**Commented [LB4]:** Defined by WCWRC as a 1" rain event, which includes the majority of rain events in the City.

### 5.22.3 Storm Water Management Systems

Compliance with the Storm Water Management System criteria of this Section **Error! Reference source not found.**~~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 required for issuance of Grading Permits that do not require site plan, final preliminary plat, or PUD site plan approval.~~

Site plans for ~~administrative Planning Manager~~ 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 **Error! Reference source not found.**~~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 **Error! Reference source not found.**~~5.22~~ are not applicable to reviews performed by the WCWRC.
- B. For Sites other than described in Section ~~5.1.1A-5.22.9A~~ 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:
    - 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.

**Commented [LB5]:** Should this be extended to all site plans? Would have impact of less cost/impact on small/moderate projects; would result in less stormwater infrastructure to mitigate 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 100-year storm event. Detention facilities designed for the 100-year storm event shall include a Sediment forebay.
  3. Public 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 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 ~~Error! Reference source not found.~~<sup>5-19</sup> or protection of Natural Features.
  3. The alternative method of storm water detention is consistent with the intent of this Section ~~Error! Reference source not found.~~<sup>5-22</sup> and the goals of the Rules of the WCWRC, as determined by the ~~City Planning Manager~~<sup>PSA Administrator</sup>.
  4. The alternative method of storm water detention is specifically approved on a site plan ~~or permit, 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.

- 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.
- 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~~ PSA Administrator for approval prior to issuance of any certificate of occupancy. The as-built verification shall include: elevations and volumes, outlet sizes and elevations, Stabilization information, and signature and seal of 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 ~~Error! Reference source not found.5-29-~~ and ~~Error! Reference source not found.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.

### 5.1.2 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, Sidewalk, 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 **Error! Reference source not found.5-22**.
- E. Immediately removing all soil, miscellaneous Debris or other material applied, dumped, tracked, or otherwise deposited on streets, Highways, 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.

### 5.1.3 Maintenance Standards

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

### 5.1.4 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.

Section 2. [OPTION B – EMPHASIZES REMOVAL OF SITE PLAN TRIGGER AND ADDS STORMWATER REQUIREMENTS] That Section 5.22 Storm Water Management and Soil Erosion of Chapter 55 Unified Development Code be Amended as follows:

### 5.22 Storm Water Management and Soil Erosion

No Person shall conduct activity for which a permit under this Section Error! Reference source not found.~~5.22~~ or related Section Error! Reference source not found.~~5.20.9~~ is required without first having obtained the required permit. After the permit has been obtained, no Person shall conduct any activity in violation of any condition of that permit, or without having the permit and plans on Site. Throughout this Section, the Washtenaw County Water Resources Commissioner, and the Commissioner’s office, are referred to as “WCWRC”.

#### 5.22.1 Purpose

- 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

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 **Error! Reference source not found.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**

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.

#### **5.22.3 Storm Water Management Systems**

Compliance with the Storm Water Management System criteria of this Section **Error! Reference source not found.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 required for issuance of a~~ Grading Permits ~~that do not require site plan, final preliminary plat, or PUD site plan approval.~~

~~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, Grading Permit 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 ~~Error! Reference source not found.~~ 5.22 are not applicable to reviews performed by the WCWRC.
- B. For Sites other than described in Section ~~5.1.1A~~ 5.22.9A ~~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, or Grading Permit. 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:
    - a. Impervious Surfaces ~~greater~~ less than 5,000 square feet ~~and less than 10,000 square feet require retention/infiltration only of the first flush storm events~~ shall meet the same requirements established in 5.22.2 for Single or Two-Family Residential Storm Water Management.
    - ~~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.~~
    - e.b. Impervious Surfaces equal to or greater than ~~+~~5,000 square feet require retention/infiltration of the first flush, and detention of bankfull, and 100-year storm event. Detention facilities designed for the 100-year storm event shall include a Sediment ~~forebay~~.
  3. Public Sidewalks are not required to be included in the storm water management calculations.

**Commented [LB6]:** Changes requirements for development that includes up to 5,000 sq. feet of impervious surface from exempt to first flush requirements.

**Commented [LB7]:** Eliminates this category of project.

**Commented [LB8]:** Reduces impervious surface threshold for "full" infrastructure to 5,000 sq. ft. or more.

4. If the Site is located in an historic district designated by the City, then the preserved 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 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 ~~Error! Reference source not found.5-19~~ or protection of Natural Features.
  3. The alternative method of storm water detention is consistent with the intent of this Section ~~Error! Reference source not found.5-22~~ and the goals of the Rules of the WCWRC, as determined by the ~~City Planning Manager~~ PSA Administrator.
  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.
    - 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.

- 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~~PSA Administrator for approval prior to issuance of any certificate of occupancy. The as-built verification shall include: elevations and volumes, outlet sizes and elevations, Stabilization information, and signature and seal of 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 ~~Error! Reference source not found.~~5-29-3 and ~~Error! Reference source not found.~~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~~PSA Administrator the City may, after posting reasonable notice on the Site, perform the maintenance activities and charge all costs to the benefited properties. If the costs remain unpaid for 60 days, the City may assess those costs to the benefited properties as a single Lot assessment under City Code Section 1:292.

#### 5.1.5 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, Sidewalk, 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 **Error! Reference source not found. 5.09.**
- E. Immediately removing all soil, miscellaneous Debris or other material applied, dumped, tracked, or otherwise deposited on streets, Highways, 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.

#### **5.1.6 Maintenance Standards**

Persons carrying out soil Erosion and Sediment control measures under this chapter, and all subsequent owners of property upon which such measures have been taken, shall maintain all

permanent anti-Erosion devices, retaining walls, Structures, plantings and other protective devices.

**5.1.7 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.

Section 3. That this Ordinance shall take effect 10 days after publication.