

Ann Arbor, Michigan  
Zoning Ordinance Reorganization (ZORO)  
Diagnosis and Annotated Outline



*prepared for the*

Office of the Ann Arbor City Attorney  
Planning and Development Services Unit  
& ZORO Technical Working Group

by  
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DRAFT

# 1. Introduction

Ann Arbor's present zoning code was adopted more than 40 years ago. Since then the city's population and zoning needs have change dramatically. The land use regulations have also changed – frequently; many additional ordinances and regulations have been added to address new topics in land use development. The result is a regulatory patchwork that is internally confusing and does not efficiently address the contemporary needs of a modern city.

## 1.1. Background

Like all city codes, the Ann Arbor city code is a living document that has been amended and added to over the years. New chapters and provisions are added as stand-alone documents that do not align with each other or even use the same terminology. State and federal laws are enacted that may not be clearly reflected in local regulations, even though the City may have revised its internal practices to maintain compliance. Many of the piecemeal revisions to the Ann Arbor land use regulations represent the City's efforts to integrate new planning practices and to address the concerns of its citizens. Still, collectively they are confusing to navigate in their current format.



Because the current land use development regulations create many challenges for applicants, homeowners, and staff, Ann Arbor is undertaking a multi-phase initiative to consolidate and then update its land use plans and codes. The four phases are:

- **First**, the four area master plans have been consolidated into a single master plan, making future revisions easier.
- **Second**, the zoning ordinance and other development-related ordinances are being reviewed for technical changes to improve clarity, organization, and user-friendliness, setting the stage for future substantive amendments. This phase of the planning effort is known as the Zoning Ordinance Reorganization (ZORO) project.
- **Third**, the master plan land use element will be reviewed for relevance and will be updated where necessary.
- **Fourth**, and finally, the zoning and development-related ordinances will be reviewed for substantive changes to standards and regulations to reflect and implement the revised master plan land use element.

Each of these components will build upon previous work to result in a clear, comprehensive and consistent land use plan and code that will guide and facilitate the desired future growth and development of Ann Arbor.

## 1.2. ZORO Process

This document, the Diagnosis and Annotated Outline, is the first, interim product of the ZORO project (phase 2 of the multi-phase code reorganization and update process.) The ZORO project will be completed in four sequential phases.

### 1.2.1. Phases of ZORO

The four ZORO project phases are as follows:

#### 1. **Project Kick-off (completed December 2009)**

- Consultant reviews regulations with the City's Project Team and other staff that regularly administer provisions of the code
- Consultant meets with Planning Commission and Zoning Board of Appeals
- Public Meeting #1

#### 2. **Preparation of Diagnosis and Annotated Outline (This Document)**

- Consultant develops a detailed assessment of regulatory problems
- Consultant provides an annotated outline of the clarified, reorganized chapters
- Consultant meets with Project Team and Technical Working Group to review the Diagnosis and Annotated Outline
- Diagnosis and Annotated Outline and preliminary staff comments posted on City web site for public comment
- Public Meeting #2 to present Diagnosis and Annotated Outline

#### 3. **Drafting the Revised Ordinances**

- Consultant provides Staff Draft of the clarified, reorganized chapters for review and technical correction by Project Team
- Consultant meets with Project Team and Technical Working Group to Review Staff Draft
- Consultant provides Public Draft of clarified, reorganized regulations, which is posted on City web site for public comment
- Public Meeting #3 to present Public Draft

- Consultant provides Adoption Draft of clarified, reorganized regulations based on discussion of public comments with staff
- Based on staff and public comment, consultant consolidates a list of suggested substantive changes to development regulations for future consideration by the City.

#### 4. Adopting the Revised Ordinances

- Consultant attends Planning Commission public hearing on the Adoption Draft
- Consultant attends City Council public hearing on the Adoption Draft

#### 1.2.2. ZORO Project Responsibilities

The City has selected Clarion Associates as its consultant for the ZORO project. Clarion Associates is the author of this document, will perform work involved in clarifying and reorganizing the ordinances, and will review this work with the City's legal counsel. We will lead public meetings, meet with the Project Team, Technical Working Group, the Planning Commission, and the Zoning Board of Appeals, and will prepare all required documents for the ZORO project. We will also coordinate with City staff to maintain a list of requested substantive changes to the ordinances that may be considered in future phases of the multi-phase code update.

A Project Team, consisting of staff from the Ann Arbor City Attorney's office and the Planning and Development Services Unit, will lead and support Clarion during the entire project, assembling background material and information and providing assistance as needed. Clarion and the project team will facilitate a Technical Working Group of staff and appointed and elected officials that will review documents and provide feedback at appropriate milestones in the project schedule.

#### 1.2.3. Public Involvement

To ensure that the public is aware of and involved in this project, Clarion and the Project Team will use a range of communication tools:

- **Public meetings and information sessions.** Three public meetings will be held during the project to introduce the project, provide background information and status updates, and offer opportunities for public review and comment.
- **Public hearings.** The Planning Commission and City Council will each hold a public hearing prior to taking action on the final drafts of the proposed revisions.
- **E-mail updates.** Regular e-mail updates will be sent to individuals who have requested them during the project.

- **Project web page** A project web page has been created on the City's web site and will be regularly updated by the Project Team. The address is [www.a2gov.org/ZORO](http://www.a2gov.org/ZORO).
- **Project e-mail address.** A project e-mail address has been created to send questions or comments to the Project Team. The address is [ZORO@a2gov.org](mailto:ZORO@a2gov.org).

## 1.3. ZORO Project Goals and Benefits

### 1.3.1. Goals

The goal of the ZORO project is to present the information contained in the existing land use development chapters of the City code into a more coherent, consistent, concise, and user-friendly manner. The resulting product will present information that is:



- **Comprehensive** – does not require references to other chapters to determine what standards govern development and redevelopment.
- **Clear** – with consistent standards, consistent definitions, and consistent format
- **User-friendly** – to both seasoned code users and the general public.
- **Enforceable and Legally Defensible** – based on legal, objective standards and current Michigan enabling laws.
- **Adaptable** – structured to make it easy to add or delete needed provisions in the future.

The ZORO project has been structured to avoid substantive changes to the current regulations. While some members of the Ann Arbor community are anxious to see the City make substantive changes made to the land use regulations, that is not part of this project. However, through the course of the ZORO project, as substantive issues are raised, they will be recorded for consideration in later phases of the City's multi-phased land use plan and code update.

### 1.3.2. Benefits of Reorganization and Clarifying Code

In our experience, reorganizing and integrating land use regulations have several major benefits. First, the code becomes substantially more user-friendly as similar provisions are grouped together and conflicting provisions are clarified. Second, a clear, concise code is more straightforward to administer, ensuring that public resources for development review are used as efficiently as possible. Third, a code that clearly reflects current state and federal law becomes more legally defensible

and avoids the expense of possible legal challenges, even if they are ultimately unsuccessful.

Code revisions and reorganization also create a better platform for future substantive improvements. Not only will a clear, concise code improve stakeholders' ability to understand the existing code, but also to examine its strengths and weaknesses when considering future revisions. Finally, the city will be able to enact needed revisions much more easily when related provisions are grouped together, and stakeholders will be better able to evaluate the implications of proposed revisions.

## 1.4. This Diagnosis Report

### 1.4.1. Background

This report constitutes a general assessment and critique of the city's existing land use ordinances. It summarizes information gathered from code users and other stakeholders in the December 2009 meetings and is intended to be used as a roadmap for drafting the reorganized and clarified land use regulations. By design, this report focuses primarily on the current code's shortcomings rather than its virtues. What we have identified as current shortcomings should not be viewed as a criticism of the authors of the current code or those officials who have administered it over the years. All old development regulations have problems, and Ann Arbor's is no exception.

### 1.4.2. Structure of Report

This report is divided in four parts:

- **Part 1**, (this introduction) provides important background on the ZORO project and places the report in the context of the overall land use plans and codes update.
- **Part 2** contains overall comments for reorganizing the land use development regulations and making them more user-friendly.
- **Part 3** is a chapter-by-chapter discussion of the land use regulations that will be revised as part of the ZORO project. In this section, we identify key changes that add detail to or implement the general concepts of Part 2.
- **Part 4** is an annotated outline of the proposed new code structure and provides detail on how existing code sections will be incorporated into the new code structure.



## 2. Overall Themes: Organization, Format, and Usability

Land use and development ordinances and regulations are scattered among fourteen different chapters of the Ann Arbor City Code. Each chapter was prepared and adopted independently and results today in a confusing, format with inadvertent repetition and many inconsistencies.

### Key Observations/Recommendations

- The organizational structure of the development regulations needs a complete overhaul.
- Staff has developed code interpretations and a few hand-outs that can be codified without making changes to the city's current practice.
- The code needs more tables, graphics, navigational tools, and other visual ways to communicate content.

### 2.1. Existing Code Weaknesses

Taken together, the existing land use and development chapters of the code (especially Chapters 55 *Zoning* and 57 *Subdivision and Land Development Standards*) have several broad weaknesses. These chapters:

- **Are difficult to navigate** – users have to “flip back” to previous sections to find key information, and have to check several different chapters to find all standards related to one subject.
- **Need “clean up” changes** –to remove inconsistencies and reflect current City practice
- **Lack clarity** – answers to some specific questions are elusive, which could lead to inconsistency over time.
- **Contain dated and incomplete material** – some regulations are out-of-date and/or have unintended gaps in coverage.
- **Have minor inconsistencies with state law** – current regulations may not always be consistent with the most recent changes to enabling statutes and court decisions. While the City has revised its practices to remain consistent with Michigan law, those revisions may not always be reflected in the written code.
- **Use terms inconsistently** – key terms have been used inconsistently in different sections and different chapters and may not always have the same meaning when used in different contexts.

The remainder of this Part 2 of the Diagnosis provides detail on the general principles and concepts that will be used to improve the organization, format, and user-friendliness of the code document.

## 2.2. Reorganize the Code

The existing land use development chapters of the Ann Arbor land use regulations are scattered in numerous separate chapters and addenda. The chapters are sometimes divided into articles and sections, and other times only into sections. We propose a significant update to the organization of the document into a single code chapter organized with eight articles. We will update the organizational reference elements, such as a table of contents and document headers and footers, to help users locate the information that they need. The proposed new organization is detailed below in the Annotated Outline (Part 4 of this document).

In general, the goal in the new organization will be to place frequently used information where it can be easily referenced, and to remove some of the current repetition in the code by consolidating related information. The primary advantage to this approach is that all relevant procedures and regulations can be organized into a logical, common sense framework that is more intuitive to use, particularly for those who do not use the code on a frequent and regular basis. In addition, it is easier to see the overlaps between different procedures, to remove repetition, and to make future amendments easier and more consistent. Charts, tables, and graphics will be used to illustrate definitions and regulations instead of or in addition to text.

## 2.3. Use Clear Language

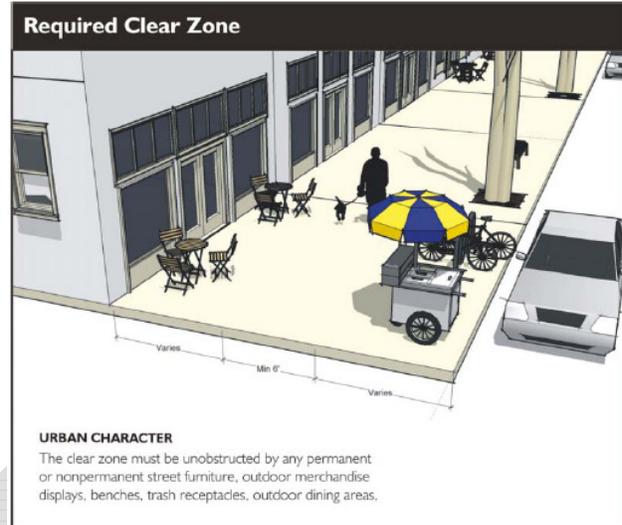
We heard from City staff and other interviewees that the current code contains language that is difficult for the public to understand and use. We will review all text in the code and look for opportunities to provide greater clarity. We will ensure that everyone can understand the code's language, from the individual landowner looking to expand his house to the professional planning a new development. We will identify and wring out "legal-ese" and "planner-ese" and replace jargon with plain language. A well-organized code with clear language should reduce the need for interpretations, which has been a persistent need with the existing code. In addition, we will craft clearer definitions for key terms and uses throughout the code. Definitions will be crafted to address common interpretation problems and existing definitions will be reviewed to assure they are appropriate and are used consistently.

The ZORO project has been structured to avoid substantive changes to the current regulations, but sometimes clarification of term or removal of an inconsistency will affect the substantive outcome of an application. In each case, where a change may have substantive impacts, it will be clearly footnoted so that all stakeholders can identify and evaluate the proposed change. The following is a representative, but not exhaustive, list of examples of non-substantive changes that may be included:

- Clarifying an existing standard by eliminating other possible interpretations
- Changing standards to be more consistent with state laws and current legal precedent
- Adding a standard to fill a gap in the current code

## 2.4. Add Illustrations, Tables, and Flowcharts

The adage about a picture being worth a thousand words is certainly true of development codes. Often, concepts that are difficult to describe in words can be clearly shown and easily understood with a drawing. Ann Arbor's current code only has a few illustrations, but the City has supplemented the code with some handouts that include useful, explanatory illustrations. Examples include the planning department's fence permit handout that depicts the locations of front, side, and rear setbacks and the building department's handout on decks. Ann Arbor staff also identified vague or overly complex rules of measurement, such as building height, where additional illustrations can be especially helpful. Illustrations also are effective in describing landscaping and screening requirements, parking lot and stall layout, and sign regulations. Clarion will include illustrations from its existing files, and will insert additional illustrations created by City staff to for these purposes, but will not be creating new illustrations as part of the ZORO effort.



Within the integrated and clarified development regulations we will also use tables, examples, and flowcharts to better explain and summarize development standards and procedures. Sometimes these graphics will supplement text; in other cases they may replace text. Tables such as those shown in Part 4 of this document are another important tool that can convey a wealth of information in a simple and compact format.

## 2.5. Update Document Layout, Format, and Graphic Design

The current code is difficult to read and navigate. It has no table of contents and the formatting and numbering system are not clear. The new code should use large, distinct typefaces for section titles and subtitles. Indented text should be used to provide an indication of organizational hierarchy. Generous white space and clear illustrations and graphics should be used to enhance the document's visual appearance and improve its comprehensibility.

Basic graphic design techniques can be used to improve the look and feel of the document and to help guide users to the information they are seeking. Simple improvements such as the use of headers and footers indicating the chapter and article can orient readers to where they are in the code document. More creative use of font types and sizes will collectively illustrate the hierarchy of topics in the code. Accurate cross-references will help identify additional materials and the relationships between various sections and documents. An example of these formatting approaches from another community is shown, below, and Clarion will format the reorganized zoning ordinance to include these and other formatting improvements for readability.

**a** page header

**b** prominent headings

**c** consistent numbering, indented paragraphs

**d** commentaries

**e** graphics

**f** generous use of white space

**g** page numbers

**h** printing date

**a** Section B: Form-Based Zoning for Downtown RD, Residential-Downtown Transition District

**b** RD, Residential-Downtown Transition District

**c** 2.1 Description

The RD, Residential-Downtown Transition District is primarily intended to accommodate residential and mixed-use development on the edges of downtown. The RD district allows new development that is generally in keeping with the size and scale of buildings that currently exist in the RD, RS and other non-downtown parking districts found around the periphery of downtown. RD zoning generally corresponds to the downtown's University Link and "edge" character districts.

**c** 2.2 Building Placement

2.2.1. Regulations governing where buildings may be placed on a lot shall ensure that new any construction in RD districts will match the established development pattern in downtown edge areas.

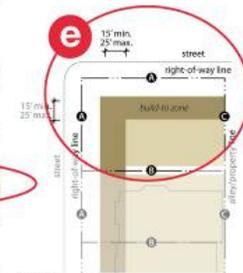
2.2.2. Buildings must be placed in the shaded area shown in Figure 2.1, except as otherwise expressly provided in this chapter.

**d** *Note:* Because of the varying development patterns that exist in edge areas, it may be necessary to devise different standards for different blocks, or establish building "footprint" standards for different building types (e.g., houses, apartment buildings, apartment buildings, commercial buildings, etc.).

A. Building setback abutting street right-of-way: 15' min./25' max.

B. Building setback abutting interior side property line: 3' min., none required if building on abutting lot has 0' interior side setback.

C. Building setback abutting rear property line: 0' min.



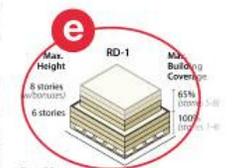
**e** Figure 2.1

2.3. Building Profile

2.3.1. Height

A. Building height limits are established to ensure reasonable, predictable limits on maximum building height and help ensure that the height of new buildings is in keeping with the established character of downtown transition areas.

B. Two building height limits are established for the subarea that makes up the larger RD district: (1) a maximum "as-of-right" height and (2) a minimum "public benefits" height. The "as-of-right" height limit applies to all buildings. It is the maximum height allowed for any building. Only projects that provide extraordinary public benefits, in accordance with

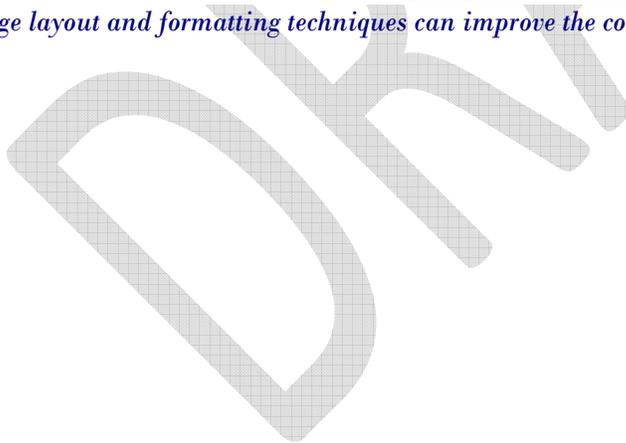


**e** Figure 2.2

**g** Downtown Edge Code (10-19-07 DRAFT)

**h**

*Page layout and formatting techniques can improve the comprehensibility of zoning regulations.*



## 3. Chapter-by-Chapter Analysis

This Part 3 of our Diagnosis provides a detailed chapter-by-chapter (and in some cases article-by-article) analysis of the Ann Arbor land use regulations that are to be revised as part of the ZORO project. It includes observations, questions, and recommendations regarding current ordinance language, organization, and content. Comments and recommendations are provided in this part of the document only for sections that have significant deficiencies. Sections that will be either carried forward as written or with minor changes have generally been omitted from this review. In addition, all of the chapters listed below will be revised pursuant to the general comments in Part 2, above. Changes generally intended to implement the principles of Part 2 have not been repeated here.

### Key Observations/Recommendations

- The separation of related development regulations and procedures between many chapters creates confusion and increases the chances for inconsistency.
- The separation of basic materials between Chapters 55 and 57 is particularly confusing.
- The distinction between Planned Projects and Planned Unit Developments needs to be clarified
- Many terms lack definitions or are vaguely defined.
- Review and approval procedures are scattered and not well described.

### 3.1. Chapter 26 – Solid Waste Management

The majority of this chapter of the Ann Arbor municipal code is not concerned with land use regulations. However, Section 2.5, Solid Waste Containers, contains standards for the placement and screening of refuse containers. We will integrate or cross-reference these provisions in the new, revised code.

### 3.2. Chapter 40 -- Trees and Vegetation

Although not included in Clarion's original scope of work, the similarity between this topic and Chapter 62 *Landscaping and Screening* was raised during code user interviews. The inclusion of these provisions into the UDC requires a judgment call, since many land development codes include provisions relating to protection of trees on private property but few codes include provisions regarding the management of trees on public property. We will integrate these provisions into the landscaping article of the new UDC for evaluation of its "fit", and will remove it in the Adoption Draft if directed by the Project Team.

### 3.3. Chapter 47 Streets

While it is common that street regulations are maintained separately from other land development regulations, we heard from many code users that the curb cut provisions of this chapter are vague or confusing for applicants when they do site planning under Chapters 55 *Zoning*, and 57 *Subdivisions and Land Use Standards*. For example, paragraph 4:20, *Curb Cuts and Driveway Approaches*, is vague with regard to the required location of the allowed curb cuts when a property has more than one street side. This will be clarified through new provisions in the development standards article of the revised code. We also heard that there is a problem with internal consistency in the city code, in that the minimum width of the driveway opening in this chapter is substantially wider than the maximum width of one-way driveways allowed in Chapter 59, Section 5:168, *Design of Off-street Motor Vehicle Parking Facilities*. This currently results in awkward neck-downs. Changing either of these standards would have substantive impacts, but we will suggest a resolution for this inconsistency. Similarly, there is an inconsistency as to whether a five foot or six foot clearance is required over sidewalks that needs to be resolved. Chapter 47 will remain a separate chapter for general street standards, including those for street construction activities, permits, and sewer connections. Development standards that will be moved or cross-referenced in the new code include sections 4:16-4:21, that provide specific site plan and curb cut standards for development and 4:30 *Private Street Standards*.

### 3.4. Chapter 55 – Zoning

Together with the zoning regulations of Chapter 57, this chapter is the core of the existing land development regulations in Ann Arbor. It contains many useful provisions but overall it is antiquated in both form and content. Over time, necessary updates and amendments have not always been located near logically related topics, making the code difficult to navigate and administer. In the sections below we note specific comments for each article of the chapter.



#### 3.4.1. Article I. In General

The first article of this chapter contains definitions. We heard a wide range of comments from code users about definitions in this article that are unclear, difficult to apply, or lacking. While adding or clarifying definitions could be considered a substantive change to the code, in many instances the City has by necessity developed a working definition that is used day-to-day to administer the code. Codifying these working definitions and clarifying terms simply illuminates the current practice and adds transparency and predictability for applicants and other code users. Each new definition will be footnoted in the draft for review by stakeholders, public, and staff. Some examples of terms that we heard were missing from the definitions section or in need of clarification include the following:

- Accessory Dwelling Unit;

- Adult Foster Care;
- Affordable Housing for Lower Income Households;
- Boarding House;
- Building (to avoid manipulation of the term by creating artificial connections between two structures in order to have them treated as a single building);
- Building Height;
- Dormer;
- Development;
- Dwelling Unit;
- Floor;
- Floor Area Ratio;
- Fraternity or Sorority House;
- Large Group Homes;
- Lot of Record;
- Motel;
- Parking Lot;
- Parking Space;
- Project Completion;
- Residential Occupancy;
- Roof;
- Rooming House;
- Rooming Unit;
- Site (used differently in different chapters and codes);
- Student Cooperative Housing;
- Terrace Family Dwelling;
- Two-family Dwelling (to clarify that this does not include two freestanding single family units that touch at one point or are linked by non-structural decorative feature);
- Usable Floor Area, Nonresidential (references to “usable” will be removed as unworkable. We understand that the City will be suggesting a revised definition of Floor Area that combines the nonresidential and residential definition for discussion and public hearing prior to adoption of the ZORO ordinance revisions. If adopted, that revised language will be incorporated into the code;

- Wireless Communications Antenna; and
- Wireless Communications Tower.

Section 5:3 of this article, *Required Conformity to District Regulations* (untitled paragraph (2)) is vaguely worded and needs clarification. We will more clearly specify which governmental agencies are exempted from what land development regulations by state law. In doing so, we will take into consideration the limited ability of the City to regulate land use and development for state agencies and other entities (such as the University of Michigan and Ann Arbor Public Schools).

Sections 5:2, *Classification of Districts*, 5:4, *Zoning District Boundaries Shown on Zoning Map*, and 5:5, *Interpretation of Zoning Map*, are misplaced in this uses chapter. They will be moved to the zoning districts article of the new revised code.

### **3.4.2. Article II. Use Regulations**

In addition to regulating permitted uses of land, this article – specifically Section 5:10 - sets out the zoning districts in Ann Arbor. There are 31 base zoning districts in Ann Arbor as well as a “planned unit development” zoning designation. The zoning district intent statements and district wide-regulations (such as paragraph 5:10.14(4), *Required Conditions*) will be carried forward to the new zoning districts article.

Section 5:10 of this article also includes one of the most common problems noted by code users: the “flipback” system of use regulations, in which the lists of permitted uses in some zoning districts refer back to use lists in other zoning districts that appear earlier in the regulations. This requires code users to search through several zoning districts to determine what uses are allowed in each district, and leaves ambiguity as to whether the use conditions applicable in one district also apply in subsequent districts, and often result in unintended lower intensity uses being allowed in higher intensity districts. This approach is not uncommon in older zoning codes, but due to the same challenges noted by Ann Arbor code users, most cities have moved away from it. As one of the most significant organizational changes in the revised code, we propose a new system of indicating use regulations in the annotated outline that moves away from the lists and “flipbacks” that Ann Arbor code users uniformly dislike.

### **3.4.3. Article III. Area, Height, and Placement Regulations – Generally and Article IV. Same – Application**

Second to the “flipbacks” mentioned above, the shortcoming that code users most frequently mentioned is that the dimensional regulations (area, height, and placement) are cumbersome, complex, poorly organized, and difficult to understand and administer. Some of the specific concerns mentioned include the complex

formulas for building separation in Section 5:30 and setback regulations scattered in several locations and articles.

We will streamline and clarify these regulations, presenting them in a significantly easier-to-use format and grouping like regulations closer together. For example, all regulations relating to setbacks (such as Section 5:57, *Averaging Front Setback Line* and 5:62, *Required Additional Setback Regulations*), will be grouped together with a clarification of the applicability of 5:603, *Conflicting Land Use Buffers*. In Section 5:62, the text requires additional setbacks for taller buildings, but does not clarify whether additional setbacks can permit a building to exceed the maximum height in that zone district; staff interpretation is that it does not.

Code users also note that the language of this article is vague about how residential density regulations apply in primarily commercial districts. In the commercial districts, density is regulated by floor area ratio (FAR), as is typical in many cities. However, some of the commercial districts allow residential uses by a cross-reference (“flipback”) to the R3 residential district, where density is regulated by dwelling units per acre. This leaves uncertainty about which density regulation should apply to new residential uses that are allowed in the commercial district. The city’s current practice is to apply the less stringent FAR standard rather than limiting dwelling unit per acre, and we will codify this interpretation. If Ann Arbor stakeholders want to change that approach, that would be a substantive change for a later phase of the code update.

#### **3.4.4. Article V. Planned Projects**

This article authorizes a procedure for approving projects that include minor modifications from the area, height and placement regulations in exchange for certain benefits. We will update this section to clearly indicate the limitations and distinctions of this flexible development process from the City’s PUD process which also provides a flexible approach to development standards. In addition, the list of PUD criteria does not specify whether one or all of the listed beneficial impacts must be provided, and that should be clarified based on current City interpretation.

#### **3.4.5. Article VI. Supplementary Regulations**

This is a catch-all article containing a variety of unrelated regulations. It appears to be a kind of holding pen for various new regulations that were added over the years. We will disperse and reorganize the sections of this article, grouping them with related materials. As examples, we will move Section 5:77, *Lot Accessibility*, to the new development standards article; Section 5:78, *Use of Accessory Building Prior to Use of a Principal Building Prohibited*, and Section 5:79, *Essential Services*, to the new use regulations article; and Section 5:80, *PUD Planned Unit Development Regulations and Standards for Approval*, to the PUD section of the new administrative bodies and procedures article. See the annotated outline, Part 4, for the proposed new code organization by articles.

#### **3.4.6. Article VII. Nonconformance**

We heard two specific concerns about the nonconformance standards of this article. First, code users indicated that the article would be clearer and easier to use if the regulations for nonconforming uses were addressed separately from the regulations for nonconforming structures. We will make that change, and will also group these provisions with those addressing nonconforming lots. Second, we heard that the language of Section 5:88, *Development of Record*, is confusing and vague, and we will clarify those provisions. This is a topic where many American cities are moving away from “standard” approaches to nonconformity (trying to force them out or assuming they will go away over time), so we will consolidate comments received on that topic and recommend possible directions for the City to pursue in later phases of the plan and regulation update process

#### **3.4.7. Article VIII. Administration**

This sparse article sets out certain administrative duties of the planning manager, formerly the planning and development manager. It also establishes the procedure for a zoning compliance certificate. We heard from staff that longstanding practice in Ann Arbor contradicts the language of this section requiring a zoning compliance certificate is required for every change of use. Many communities have similar provisions and most of them, like Ann Arbor, find that its administration is problematic. For example, a retail space may turn over from one business to another without the City being aware of the change. We will change this provision to reflect the fact that a zoning compliance certificate is optional for changes of use within a category of similar uses but is available upon request. A zoning compliance certificate would still be required for use changes between different use categories, because of the need to confirm that the new use complies with parking, landscaping, and buffering standards, among others. We will also more thoroughly elaborate the duties and responsibilities of the planning manager.

#### **3.4.8. Article IX. Zoning Board of Appeals**

This article establishes and sets out the general variance and appeals procedures of the Zoning Board of Appeals (ZBA). We heard from a number of code users that there is confusion between the provisions of this section and other, more specific variance sections in other parts of the city code. We will consolidate variance provisions in the revised UDC and clarify what variance criteria apply to different types of variances. Consolidation of these sections will make it easier for Ann Arbor to consider whether to make variance procedures and criteria more uniform in later, substantive phases of the City’s multi-phase code update process. We will also clarify that the ZBA does not grant use variances.

This article does not reflect some of Michigan’s public notice requirements (even though Ann Arbor has modified internal practices to comply with those provisions. Those state requirements will be codified in the UDC.

#### **3.4.9. Article X. Special Exceptions**

This section contains the procedures for special exceptions. As with article IX above, we understand that the public notice requirements in this section do not reflect the minimum state requirements, but that the City’s current practice is consistent with the requirements of state law. Again, the state requirements will be codified. We will also indicate procedures for which Ann Arbor has adopted public notification and participation requirements that exceed and supplement the state’s minimum requirements.

#### **3.4.10. Article XI. Amendments**

For most applicants, the name of this article does not clearly suggest its true content. The article addresses (primarily) rezonings, and also (briefly) code text amendments. In the revised code, we will address the two procedures in separate sections. We will title each with more the more commonly used terms, “rezoning” and “code text amendment,” so that applicants can locate them more easily. Section 5:110, *Citizen Participation for Petitions That Require Public Hearings*, contains Ann Arbor’s recently-adopted provisions for enhanced citizen participation that go well beyond the state minimums. These provisions apply to development applications in addition to rezonings, so we will move them to a location in the revised code that more clearly indicates their applicability to a range of different procedures.

#### **3.4.11. Article XII. Legal Status and Effective Date**

These basic general provisions establish the authority and applicability of the code, and are more typically found at the beginning of a code. We will update these provisions to cite all applicable Michigan authority for land development regulations and will move them to the first article of the revised code.

### **3.5. Chapter 56 – Prohibited Land Uses**

This chapter is slightly longer than one page. It contains one prohibition of a use (oil and gas wells) and two use standards. In general, we do not recommend listing prohibited uses separately, but simply structure use provisions to list those uses that are permitted by right or with special approval and then not list those uses that are not available. This is clearer for code users, because a separate prohibited use list suggests that any use not on that list might be available somewhere in the city through a broad interpretation of some listed use, when that is not the case. We will integrate the contents of this chapter with other use regulations in the revised code and clarify that this is a limited list of specifically prohibited land uses, and not a comprehensive list of all uses not permitted in Ann Arbor.

### **3.6. Chapter 57 – Subdivision and Land Use Controls**

Together with the zoning regulations of Chapter 55, Chapter 57 is the core of Ann Arbor’s land development regulations. Overall, code users identified fewer problems with this chapter than with Chapter 55. One overall concern is that the land development regulations (LDRs) document has never been fully integrated into the existing chapter, but is instead a standalone document, which makes them very difficult for most code users to locate. In the two subsections below we provide additional, specific comments on the main body of the chapter as well as the LDRs.



### 3.6.1. Subdivision and Land Use Controls

This existing subdivisions chapter is unusual in that it includes some procedures and standards for reviews that typically are not associated with a land division (such as site plans), and others that apply to both land divisions and rezonings (such as area plans). Many other procedures currently reside in Chapter 55. In the revised code, we will consolidate all procedures in one article to avoid internal inconsistency between different procedures.

#### **Section 5:122, Site Plan**

This section sets out the procedures for site plan review. Untitled paragraph 5:122(1)(d) describes when a site plan is required and lists examples of changes and features that trigger site plan review. The list is inclusive, not exhaustive, and we do not suggest it should be made exhaustive. However, we heard from staff that the list lacks examples that would be helpful to applicants’ understanding of when this procedure applies, including applications for patios, terraces, and decks. We will add these to the list of examples in order to increase awareness of the current practice, some of which are already indicated on existing building department handouts. Code users also indicated that the language of paragraph 5:122 (5), *Administrative Amendments to Approved Site Plans*, is unclear. This is because, like paragraph 5:122(1)(d) discussed above, it lacks specific examples that commonly lead to confusion among citizen code users. We will add more specific examples to the list of what types of applications can be handled administratively and what types may not because they raise a wider range of issues such as density or traffic impacts.

Paragraph 5:122(5)(j), *Administrative Amendments to Approved Site Plans*, indicates that a site plan may be extended for two years through amendment, but Paragraph 5:122(7), *Effect of Approval of Site Plan*, does not state whether other types of site plan amendments have the effect of extending the period during which the site plan is valid. We will clarify the difference between three distinct scenarios:

- Administrative amendment to an approved site plan that does not include a request for extension – in which case the original term of the site plan approval remains unchanged;

- An extension requested under 5:122(5)(j) – which specifically extends the site plan for two years; and
- Minor modifications to existing site plans under 122(4), which staff has been approving for periods of three years.

We will also expand this section to codify staff interpretation of what provisions apply when a site plan is incomplete at the end of the three year expiration. City staff indicate that it may be wise to consider a substantive change to this provision in later phases of the code update project.

### **Section 5:123: Area Plans**

This section describes a procedure – an area plan - that must occur prior to subdivisions and certain rezonings. It is a preliminary step in these two review procedures, rather than an independent approval that would give an applicant any sort of right or vested interest. We will restructure this provision so that it is indicated as an initial step in both the rezoning and subdivision procedures, rather than as an independent procedure.

### **Section 5:127, Mitigation of Natural Features**

The language in paragraph 5:127(3) that states, “Mitigation shall be provided on-site” is inconsistent with paragraph 5:127(1)(a) that references the provisions of Chapter 60. We will resolve this inconsistency by clarifying that the provisions of Chapter 60 apply, because they were adopted later.

### **Section 5:135(2), Public Information and Hearings**

The City recently modified the language of this section requiring that plans be "available to the public in city hall 24 hours per day for 7 days" – as it was not practicable, as the Planning and Development Services Unit is closed in the evenings. This revision will be incorporated into the draft code.

### **3.6.2. Land Development Regulations**

Overall, code users expressed few concerns with the substance of the LDRs other than the outstanding need to integrate them into the code more effectively. We will integrate these as well as all the City’s land development chapters as indicated in the annotated outline in Part 4 of this document. As we do so, we will also remove redundancies and resolve outstanding conflicts between the LDRs and code language that pre-dates the adoption of the LDR, including portions of Chapter 60, *Wetlands Preservation*. (See section 3.7 of this document.)



### 3.7. Chapter 59 – Off-Street Parking

This chapter contains Ann Arbor’s parking regulations and requirements. The parking table and standards— including both vehicle and bicycle parking standards – are relatively complex, and the City may want to consider streamlining these standards in later phases of the comprehensive code update process. As part of the ZORO project, however, better graphics and tables can greatly improve the accessibility and user-friendliness of these provisions.

Two specific concerns in this chapter relate to driveway standards. The first is that the maximum width for some access drives indicated in Section 5:168 *Design of Off-Street Motor Vehicle Parking Facilities*, (18 feet) is narrower than the minimum curb cut width required in Chapter 47 (22 feet), which results in awkward neck-downs. Also, in Section 5:168(3) *Design of Off-Street Motor Vehicle Design Facilities*, the driveway exception language needs to clarify that even when a driveway exception is allowed, the drive must lead to a legal parking space.

### 3.8. Chapter 60 – Wetlands Preservation

We understand that Chapter 60 *Wetland Preservation* was adopted prior to the LDR and that some sections of this chapter conflict with or are superseded by the LDR. When we move the content of this chapter and related portions of the LDR into the development standards article of the revised code, we will eliminate these inconsistencies in favor of the later adopted LDR provisions. In addition, this chapter contains procedures for application and review of a wetlands permit. These materials will be relocated to the procedures section of the UDC as a type of administrative permit. One specific concern in this chapter is Section 5:207, *General Review Requirements*, which incorrectly indicates that the City is responsible for forwarding wetland permit applications to Michigan Department of Environmental Quality. We will update this section to reflect the fact that this is actually the applicant's responsibility.

### 3.9. Chapter 61 – Signs and Outdoor Advertising

We heard very few concerns from code users about this chapter, however, we understand that this Chapter is currently being comprehensively revised by the City. We will organize the basic sign content in the current code, (and if the City Council has approved revisions before the end of the ZORO process, will also include those provisions) into a table, and will include a decision-tree helping applicants to better understand which regulations apply to which types of signs.

### 3.10. Chapter 62 – Landscaping and Screening

This is a short (ten page) chapter that contains landscaping and screening regulations, as well as several other miscellaneous regulations on topics such as outdoor lighting and

dumpsters. The outdoor lighting regulations will be moved to portions of the development standards article of the UDC addressing that topic, while the dumpster regulations will be grouped with other screening requirements. The existing landscaping requirements will be reorganized for user-friendliness.

A specific code user concern involves Section 5:603, Conflicting Land Use Buffers, which provides for a landscaped buffer between adjacent, dissimilar land uses such as a commercial parking lot and a residential use. The applicability of this section is somewhat unclear when the side setback is less than 15 feet, or when a parking lot is adjacent to a parking lot in a residential district. We will revise and clarify this section based on the City's current interpretation of how those standards apply. In addition, the City has been preparing revisions to Chapter 62 (independent of the ZORO process) and those revisions will be incorporated into this chapter if City Council has approved them prior to the completion of the ZORO process.

### 3.11. Chapter 63 – Storm Water Management and Soil Erosion

This chapter contains detailed development standards to address storm water, erosion, and sedimentation. It also includes a grading permit requirement and application procedure. The former will be incorporated into the development standards article of the UDC, while the latter will be located in the administrative bodies and procedures article.



This chapter also contains more detailed compliance and enforcement sections than other land development code chapters, including Sections 5:662 *Inspection Review*; 5:663 *Responsibility of Permittee*; 5:668 *Maintenance Requirements*; 5:669 *Failure to Complete Work*, and 5:670 *Enforcement, Violations, and Penalties*. We will bring these sections forward to the new enforcement, violations, and penalties article of the UDC. In later, substantive phases of the ZORO project, we recommend that the City consider whether to broaden application of these useful enforcement provisions.

### 3.12. Chapter 104 – Fences

This chapter is difficult for many property owners to understand and apply. The challenge is in how to apply the standards of this chapter within the setbacks defined in Chapter 55. For this reason, the City has developed an illustrated handout as a guide to assist property owners who apply for a fence permit, and we will codify the substance and illustrations of that handout.



## 4. Annotated Outline for Revised Chapter 55, Unified Development Code

This annotated outline provides an overview of the proposed structure and content of the revised land development regulations to implement the clarifications recommended in Parts 2 and 3 of this document. The purpose of this outline is to allow the reader to examine the overall structure of the proposed new ordinance without getting bogged down in the actual wording of each provision. The specific language will be presented in the draft ordinance after review and discussion of this document. For the sake of brevity, many of the detailed corrections and suggestions identified in Parts 2 and 3 of this document are not repeated here, but they will be addressed as suggested in those sections.

### Key Observations/Recommendations

- Use regulations, development regulations, and review/approval procedures should each be consolidated into a separate section of the UDC.
- Permitted uses should be consolidated into a single table, rather than using separate use lists for each district.
- Key dimensional standards, parking standards, and sign controls should each be consolidated into a table format for ease of comparison across districts.
- General review and approval standards should be stated once and not restated for each individual procedure.

This annotated outline consolidates and rearranges material from the current code into a single chapter that would be known as the Ann Arbor Unified Development Code (UDC). The suggested organization groups provisions that will be used together or that relate to one another. In addition, the new UDC will incorporate new navigational tools, such as headers and footers to indicate the article and section numbers, and a detailed table of contents.

Finally, there are several substantive amendments to existing development regulations currently underway, and (if approved by City Council prior to the end of the ZORO process) those changes would be integrated into the appropriate sections of the new UDC. The following types of amendments are currently underway:

- Chapter 55 Zoning – Area, Height and Placement revisions;
- Chapter 61 Signs – Comprehensive revision;
- Chapter 62 Landscape – Minor modifications;
- Chapter 63 Storm Water Management and Soil Erosion and Sedimentation Control – minor modifications and changes being made to address storm water management for single family residential development; and
- Floodplain Ordinance – new regulations establishing a floodplain overlay zone.

## 4.1. Article I. General Provisions

This article will contain important general provisions that are relevant or apply to the UDC as a whole. Key sections will define the title of the document and the legal authority by which Ann Arbor regulates land use. This article also will clarify who and what types of development are subject to the code's regulations. We will clarify the existing provisions that exempt some governmental and quasi-governmental entities from certain aspects of the UDC.

### 4.1.1. Authority, Title, and Effective Date

The provisions of existing Chapter 55, Article XII, *Legal Status and Effective Date* will appear in this section, and we will confirm that all applicable sources of authority are listed.

### 4.1.2. Applicability of Unified Development Code

This section will clarify that the UDC applies to all development and redevelopment in Ann Arbor unless specifically exempted, and will list those exemptions. It will clarify that all development must comply with the UDC unless exempted by state law, and will list those state law exemptions. We will draw from existing sections of the code including Chapter 55, Article XII, *Legal Status and Effective Date*; and Chapter 63, Sections 5:666, *Compliance with Chapter Required for Occupancy* and 5:671, *Liability*.

### 4.1.3. Applicability of Other Regulations

This new section will also cross-reference the fire code, building code, housing code for multi-residential buildings, and storm water regulations, and will notify readers that portions of those codes may impose requirements in addition to those in the UDC.

## 4.2. Article II. Zoning Districts

This article will establish Ann Arbor's zoning districts. In the first section, we will carry forward general language that establishes the classification of districts and similar provisions. In the remaining sections we will group the existing zoning districts into three categories: (1) residential, (2) mixed use, and (3) nonresidential and special purpose districts. Grouping the zones this way makes it easier to apply development or use standards to a category of zoning districts, which helps to streamline and clarify



regulations. Within each category, we will include the existing intent statements for each zoning district and, where there are district-specific standards (e.g., the RE research district), they will appear in this article. Use regulations in the existing Article II will be moved to the new use regulations article.

#### 4.2.1. General

The general section establishes the classification of districts, required conformity, and the interpretation of map boundaries. Source material for this section includes Chapter 55, Section 5:2, *Classification of Districts*; 5:3, *Required Conformity to District Regulations*; 5:4, *Zoning District Boundaries Shown on the Zoning Map*; and 5:5, *Interpretation of the Zoning Map*. Existing district intent statements will be clarified for readability, but substantive changes to the intended use of the districts will be avoided.

#### 4.2.2. Residential Zoning Districts

This section will set out the intent statements and district-wide regulations (not including use regulations) from residential zoning district sections of existing Chapter 55 as listed below.

| Residential Zone Districts |   |
|----------------------------|---|
| 5.10.1                     | AG, agricultural-open space district                    |
| 5.10.2                     | R1A, R1B, R1C, R1D single-family dwelling districts     |
| 5.10.3                     | R2A two-family dwelling district                        |
| 5.10.4                     | R2B two-family dwelling and student housing district;   |
| 5.10.5                     | R3 townhouse dwelling district                          |
| 5.10.6                     | R4A, multiple-family dwelling district                  |
| 5.10.7                     | R4A/B, multiple-family dwelling district                |
| 5.10.8                     | R4B, R4C, R4C/D, R4D multiple-family dwelling districts |
| 5.10.10                    | R6 mobile home park dwelling district                   |

#### 4.2.3. Mixed Use Zoning Districts

This section will set out the intent statements and district-wide regulations for mixed-use districts in Ann Arbor. We use the term “mixed use” to refer to districts that allow as principle uses of land both (1) residential and (2) commercial, institutional, or industrial uses of land.<sup>1</sup>

| Mixed Use Zone Districts |                                |
|--------------------------|--------------------------------|
| 5.10.12                  | O Office district              |
| 5:10.19                  | D1 Downtown Core District      |
| 5:10.19                  | D2 Downtown Interface District |

<sup>1</sup> STAFF: Please review the listing of mixed use and non-residential/special purpose zone districts to see if we have categorized them correctly. Any district that allows both residential and significant non-residential uses (other than churches, schools, etc. typically allowed in residential zones) should be in the mixed use category.

|         |  |
|---------|--|
| 5:10.15 | C1 Local Business District                 |
| 5:10.16 | C1A Campus Business District               |
| 5:10.17 | C1B community convenience center           |
| 5:10.18 | C1A/R campus business residential district |
| 5:10.20 | C2A/R commercial residential district      |
| 5:10.22 | C2B business service                       |
| 5:10.23 | C3 Fringe Commercial District              |

#### 4.2.4. Nonresidential and Special Purpose Zoning Districts

This section will set out the intent statements and district-wide regulations from nonresidential and special purpose zoning district sections of existing Chapter 55 as listed below.

| Non-Residential and Special Purpose Zone Districts |   |
|--|---|
| 5.10.09  | R5 motel-hotel district                         |
| 5.10.11  | P parking district                              |
| 5.10.13  | PL public lands district                        |
| 5.10.14  | RE research district                            |
| 5.10.14A   | ORL office/research/limited industrial district |
| 5.10.24  | M1 limited industrial district                  |
| 5.10.25  | M1A limited light industrial district           |
| 5.10.26  | M2 heavy industrial district                    |
| 5.10.27  | PUD planned unit development district           |

The intended use of the PUD district will be clarified based on state law and the City’s current practice, and any ambiguous terms will be revised for understandability.

### 4.3. Article III. Use Regulations

Instead of listing permitted and special uses separately (and repetitively) for each district, we will relocate all use regulations from Chapters 55 and 56 to this new article. This article will begin with a master use table that shows which uses are allowed by right or as through special exception in each zoning district. This article also will contain all of the special standards that apply to specific uses listed in the use table, plus regulations and standards for accessory and temporary uses. We will also clarify how unlisted uses are treated, as well as the City’s authority to interpret whether a proposed use is substantially identical to (or included within) a listed use.



### 4.3.1. Permitted Use Table

The centerpiece of this article is a more modern approach to use regulations than the current Ann Arbor code – one that solves the “flipback” problem. We will consolidate the existing use lists from Chapter 55, Article II, Sections 5:10.1 through 5:10.26, into a consolidated grid-style table that allows comparison of permitted uses across districts. The easy-to-read Permitted Use Table will summarize for each zoning district whether a use is: (1) permitted as a matter of right, (2) permitted subject to specific standards, (3) allowed only if reviewed and approved as a special exception, or (4) prohibited. A final column in the use table provides a cross-reference for use standards. A portion of this type of table (from another community) is shown, below.

| Table 18.09.020 Use Table  |       |       |     |     |     |      |                       |    |    |     |     |    |     |                                  |
|--|-------|-------|-----|-----|-----|------|-----------------------|----|----|-----|-----|----|-----|----------------------------------|
| “P” = Permitted Use<br>“C” = Conditional Use<br>Blank = Prohibited Use |       |       |     |     |     |      |                       |    |    |     |     |    |     |                                  |
| ZONING DISTRICT  | R 3.5 | R 4.3 | R 5 | R 6 | R 8 | R 14 | Mixed Use Town Center |    |    | HSR | NSC | BI | WDI | Use Specific Standards 18.09.030 |
|  |       |       |     |     |     |      | CC                    | MA | EA |     |     |    |     |                                  |
| USE CATEGORY / TYPE  |       |       |     |     |     |      |                       |    |    |     |     |    |     |                                  |
| <b>PRINCIPAL USES</b>  |       |       |     |     |     |      |                       |    |    |     |     |    |     |                                  |
| <b>RESIDENTIAL</b>   |       |       |     |     |     |      |                       |    |    |     |     |    |     |                                  |
| <b>Household Living</b>  |       |       |     |     |     |      |                       |    |    |     |     |    |     |                                  |
| Single-family Dwelling   | P     | P     | P   | P   | P   | P    |                       |    |    |     | P   |    |     | B-1                              |
| Single-family Dwelling existing on XX date                             |       |       |     |     |     |      | P                     | P  | P  |     |     |    |     | B-1                              |
| Multi-family Dwellings   | C     | C     | P   | C   | P   | P    | P                     | P  | P  | P   | P   |    |     | B-2                              |
| Live-Work Unit   |       |       |     |     |     |      |                       |    |    |     | P   | P  |     | B-3                              |

### 4.3.2. Accessory Uses and Structures

This section will consolidate standards related to accessory uses, which will be carried over from current language in Chapter 55, Section 5:59, *Accessory Buildings*, and 5:78, *Use of Accessory Building Prior to Use of Principal Building Prohibited*. A cross-reference will clarify that chicken coops are a special type of accessory structure regulated through the City Clerk’s office. Additional regulations will codify current practices related to the placement of minor accessory structures like donation bins and temporary storage containers. The text will clarify that tree houses, play structures, freestanding garages, and swimming pools are subject to these regulations.

### 4.3.3. Temporary Uses and structures

We will consolidate provisions for temporary uses, such as temporary outdoor sales, weekend festivals, and real estate sales offices and clarify how the City is currently interpreting and applying those standards. Related provisions in the existing code include paragraph 5:10.12(2)(h) and 5:10.15(2)(f), both of which concern temporary outdoor sales. The text will clarify that some fire tents and fireworks stands may need to meet Fire Code requirements, based on the occupancy limit of the tent.



### 4.3.4. Use Standards

Standards and conditions applicable to specific primary, accessory, and temporary uses will be consolidated in this section and will be cross-referenced in the Permitted Use Table. We will clarify that all use standards apply to the use across all zoning districts, and regardless of whether the use is permitted by right or by special exception, unless the use standard specifies otherwise.

In the current regulations, use standards are embedded in the use lists in Chapter 55, Sections 5:10A through 5:10.26. For example, paragraph 5:10.2(3)(b) contains use standards for child care centers and nursery schools in the R1 and R2 districts, while Section 5.10.14A(3)(b) contains restrictions on incidental uses in the ORL district. Chapter 55 also contains stand-alone use standards that are scattered through the chapter, such as in Sections 5:50, *Regulations Concerning Adult Entertainment Businesses*; 5:79, *Essential Services*; 5:81, *Dish Antennas*; and 5:82, *Wireless Communication Facilities*. Use standards for gas stations and mobile homes are also found in Chapter 56, Sections 5:117, Gasoline Station District and 5:118, House Trailers. We will consolidate these many scattered provisions in this section of the new use regulations article. In addition, we will confirm that these regulations comply with all current legal requirements such as the federal Telecommunications Act of 1996, the Fair Housing Act Amendments of 1988, federal and state acts concerning manufactured housing, and court rulings regarding adult uses and the First Amendment, and will recommend any revisions needed to comply with those laws.

## 4.4. Article IV. Development Standards

This section will consolidate all non-use development standards in the UDC, and will clarify that “site condominiums” (i.e., development that resemble subdivisions while keeping

the land in unified ownership rather than subdividing into individual lots) are subject to the same development standards as if they had been subdivided.

#### 4.4.1. Dimensional Standards

The first portion of this section will feature an easy-to-read table summarizing dimensional standards (area, height, placement, open space, density, and similar requirements) applicable to all zone districts. We will significantly streamline the existing dimensional tables and standards in Chapter 55, Article III, *Area, Height, and Placement Regulations – Generally*; and Article IV, *Same – Application*. Importantly, this section will also clarify that, based on the type of building construction, the Fire Code may require greater side setbacks than those required in the UDC.

An additional subsection will clarify what types of building or site improvements (chimneys, mechanical equipment, parapet walls, etc.) are allowed to project into setback areas, or through height limits, and how far. These “permitted encroachments” will be organized into a table, and the text will clarify when (if ever) some types of encroachments may require a variance, based on the City’s current procedures. As with setbacks in general, we will cross-reference the Fire Code, which occasionally has standards that limit projections through building separation requirements. Architectural features language from current Section 5:54(2)(c) will be integrated here.

The final portion of this section will include text and appropriate illustrations to establish rules of measurement (for example, building height). Rules of measurement will be provided for each type of measurement listed in the dimensional standards table. These will include, at a minimum:

- Lot area.
- Lot width.
- Building height (including a clarification of how to measure height above grade on sloping lots and removing the unused requirement to measure at all points 20 feet out from the building). This section will also clarify that although additional setbacks may be required for taller buildings in some districts, no amount of setback will allow the building to exceed the maximum height permitted in that zone district.
- Front, side, and rear lot lines.
- Front, side, and rear setbacks (including treatment of porches that are covered but not enclosed). This section will also clarify that averaging of setbacks does not require averaging across streets or around corners.
- Gross floor area.
- Gross lot area.

- Floor area ratio (FAR).
- Maximum density in mixed use districts (i.e., confirming the current practice of using FAR rather than dwelling units per acre).

Existing practices of Systems Planning staff will be reflected in these measures. This section will also clarify how required land use buffers in the zoning district regulations [e.g., Section 5:10.2(f)(3)] and in Section 5:603, *Conflicting Land Use Buffers*, relate to the setback requirements in the table. We will provide illustrations showing how certain measurements, such as setbacks on corner lots, are made, as well as the differing measurements for curb cuts and driveway openings. Where existing measurement explanations are vague or missing from the code, we will draw on the City's handouts and on staff experience to codify the current City practice. The application of these measurements to "Lots of Record" will be clarified based on the City's current practices. We will clarify that "required open space" refers to "required setbacks", while open space refers to all open areas (including but not limited to the required setbacks).

#### **4.4.2. Parking Standards**

The parking standards of Chapter 59 *Parking* will be carried forward to this section, but the intent section will be revised to remove out-of-date references (such as that to the Central Area High-Rise and Parking Report). The existing parking requirements table in 59:5-167 will be revised for readability without changing the substance of the requirements. We will clarify how these standards apply to both dwelling units and rooming units, and will clarify current staff interpretation that parking in a side setback is not allowed on the street side of corner lots. In addition, this section will clarify the difference between a parking lot driving aisle (giving access to a legal parking space) and the parking space itself, in order to avoid a current ambiguity that is sometimes construed to allow driving aisles to function as parking spaces. Similarly, we will clarify the distinction between driving aisles and private driveways.

#### **4.4.3. Landscaping, Screening, and Buffering**

This section will carry over and consolidate the provisions related to landscaping, screening, and buffering from existing Chapter 62 *Landscape and Screening*, from Chapter 40 *Trees and Vegetation*, and from the landmark tree list in the Land Development Regulations. The text will clarify what setbacks and buffers are required where parking lots are located along boundaries between different zone districts based on current City practice.

#### **4.4.4. Subdivision and Lot Design**

This section will contain standards (but not procedures) related to layout and design of land divisions. We will draw on existing provisions from Chapter 57 *Subdivision and Land Use Control*. Most sections of the existing chapter contain some standards

mixed in with procedures, including sections 5:121 *Area Plans*, 5.122 *Site Plans*, 5.123, *Planned Unit Development (PUD) Site Plans*; 5.124, *Plats*; 5.125, *Land Divisions*, and 5:133, *Development Agreements*. This section will also clarify when and how the city will grant lot combinations.

#### 4.4.5. Streets and Access

This section will carry forward the provisions of Chapter 47 *Streets* with those changes discussed in part 3 of this Diagnosis. In addition, this section will include those lot layout provisions found in Chapter 55, Section 5:77 *Lot Accessibility*, as well as related standards in the Chapter 57 *Subdivisions and Land Development Regulations*. Inconsistencies between lot access provisions in Chapters 47 and 55 will be resolved based on current City practice and curb and driveway width requirements will be illustrated. Inconsistencies regarding minimum sidewalk clearance height will be resolved based on the City's current practice. Existing provisions on minimum sight distances from access points will appear in this section.

#### 4.4.6. Storm Water Management and Soil Erosion

This section will carry land development standards forward from Chapter 63 *Stormwater Management and Soil Erosion and Sedimentation Control*. In our experience, many developers look in the UDC for these types of provisions. Those current practices regarding mitigation of storm water flows and disconnections of existing footing drains as a condition of development or redevelopment will be included.

#### 4.4.7. Natural Features Protection

In this new section we will consolidate the various provisions of the subdivision and wetlands chapters related to protection of natural features and resources. In addition to Chapter 60 *Wetlands Preservation Ordinance*, we include provisions of Sections 5.127 *Mitigation of Natural Features*, and 5.128, *Natural Features Protection*; as well as related standards from other portions of Chapter 57 and the LDR. We will resolve inconsistencies and conflicts between the existing regulations (including those regarding whether and when wetland mitigation must take place on site), using the general rule that where the provisions conflict, more recently adopted regulations prevail over older regulations. We will clarify a potential inconsistency between the current wetlands and storm water regulations by clarifying whether storm water can be placed in a wetland.<sup>2</sup> We believe this new section is important because it creates a clear place in the UDC where future regulations related to natural features can be codified.

#### 4.4.8. Signs

This section will carry forward Chapter 61 *Signs and Outdoor Advertising* with limited revisions if necessary to address compliance with state and federal law.

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<sup>2</sup> STAFF: Please confirm your current practice on this section.

However, if the City's separate initiative to revise Chapter 61 results in a revised draft of the City's sign provisions that are adopted by City Council before the ZORO process has been completed, that revised content will be incorporated into the UDC.

#### 4.4.9. Outdoor Lighting

We will consolidate lighting provisions of Chapter 59, Section 5:168(8) and Chapter 62, Section 5:605 *Lighting* in this section, and will include a cross-reference to the lighting standards of the new signs section.



#### 4.4.10. Fences

We will carry forward the provisions of Chapter 104 *Fences* to this section with limited revisions.<sup>3</sup>

### 4.5. Article V. Administrative Bodies and Procedures

This article will clarify the different roles of the review and decision-making bodies in the zoning and land development review and approval process. We also will consolidate all review and approval procedures into this article. In the existing code, the review and approval procedures are blended in with provisions that establish the review bodies (e.g., in Chapter 55, Article IX *Zoning Board of Appeals*) and development standards (e.g., Chapter 57, Section 5:125 *Land Divisions*.) In our experience, more code users approach the code knowing what type of permit or approval they need to undertake than who will review the appropriate procedure. Reorganizing the information by procedure type makes it easier for applicants to locate the appropriate procedure and can greatly improve the user-friendliness of the UDC.

#### 4.5.1. Administrative Bodies and Officers

In this section, we will consolidate provisions that establish the authority of review and approval officers and bodies, such as the Planning Manager, Planning Commission, and the Zoning Board of Appeals. Source materials for this section include Chapter 55, Article VIII *Administration*; Article IX *Zoning Board of Appeals*; and other provisions scattered through the specific procedures in Chapters 55 and 57. Because of past confusion, the revised section will clarify the impact of a Planning Commission recommendation on City Council decision-making based on

<sup>3</sup> STAFF: The notes included a comment that the state does not require a permit for fences below six feet, which is inconsistent with the current zoning height limits. We presume that is a reference to the International Building Code, and we did not include that comment because there are numerous cases where the building code exempts a type of construction that zoning regulates. If the comment referred to another state requirement (not the building code) please clarify and let us know if you want to include a comment about resolving that inconsistency.

state law. We will also clearly list the various types of decisions made by the Zoning Board of Appeals and will cross-reference those sections of the UDC where the criteria for each decision is listed.

We will develop a table for the new UDC that summarizes the decision making and review roles of the Planning Manager, Planning Commission, Zoning Board of Appeals and the City Council. The table excerpt below (from another community) provides an example of a format that allows applicants and officials to quickly determine the review process for each type of case. In order to simplify and reduce the bulk of the Code, we will put as much information as possible in tables like this rather than text.

| TABLE 32.02-1: SUMMARY OF REVIEW PROCEDURES                                    |                         |                      |                                   |                      |                     |                     |              |                  |             |                      |
|--|-------------------------|----------------------|-----------------------------------|----------------------|---------------------|---------------------|--------------|------------------|-------------|----------------------|
| Procedure  | Before you Apply        |                      | Review and Decision-Making Bodies |                      |                     |                     |              | Required Notices |             |                      |
|  | Pre-application Meeting | Neighborhood Meeting | Planning and Development          | Project Review Group | Planning Commission | Board of Adjustment | City Council | Post Sign        | Mail Letter | Publish in Newspaper |
| Amendments of Zoning Map (including PUDs)<br>Sec. 32.02.030.A                  | R                       | (R)                  | R                                 | R                    | R/M                 |                     | D/H          | ✓                | ✓           |                      |
| Amendments to Comprehensive Plan<br>Sec. 32.02.                                | R                       | (R)                  | R                                 | R                    | R/M                 |                     | D/H          | ✓                | ✓           |                      |
| PUD Final Development Plan<br>Sec. 32.02.030.A                                 | R                       | (R)                  | R                                 | R                    | R/M                 |                     | D/H          | ✓                | ✓           |                      |
| Major Amendment to PUD Preliminary Plan, or PUD Final Plan<br>Sec. 32.02.020.M | R                       | (R)                  | R                                 | R                    | R/M                 |                     | D/H          | ✓                | ✓           |                      |
| Conditional Uses<br>Sec. 32.02.030.B   | R                       | (R)                  | R                                 | R                    | R                   | D/H                 |              | ✓                | ✓           |                      |

R = Review; (R) = Review if Requested by Staff or Applicant; D =Decision; H =Hearing; M=Meeting; A = Appeal

#### 4.5.2. General Procedures

The next section of this new article will contain regulations that are generally applicable to all or several procedures. Individual subsections will be created to incorporate and integrate the City’s current regulations and practices on the following topics, at a minimum:

- Public involvement requirements;
- Application filing requirements;

- Fee payment requirements;
- Where to find forms and fee schedules;
- Public notice requirements;
- Certificate of occupancy requirements;
- Traffic impact study requirements (when necessary)
- Review and inspection by other requirements
- Bonding requirements (and where they are applicable);
- Development agreements (and when they are available/applicable);
- Minor modifications that can be approved administratively
- Other modifications and amendments;
- Duration of approvals;
- Extensions of approvals; and
- Appeal procedures.

The new Unified Development Code will clarify that State of Michigan public notice requirements are the minimum requirements for all development application types, and will ensure that the text is consistent with state law. We will also indicate any procedures for which Ann Arbor has adopted public notification and participation requirements that exceed the state's minimum requirements. Consistent with Chapter 47, Section 4:18, the text will clarify that a Certificate of Occupancy may not be issued until compliance with the UDC has been established. This section will also include the City's various bonding requirements.

Public notice provisions will be revised to reflect the lack of a daily published newspaper in Ann Arbor while remaining consistent with the requirements of state law. We will remove obsolete provisions requiring signature by a specific individual (which is often unworkable if they are ill or out of town) and will clarify the current practice allowing delegation of those responsibilities to a subordinate). Consistent with mainstream practice in other cities, we will clarify that multiple alternative applications for the same development may not be submitted simultaneously. This section will also clarify when a traffic impact study is required; an area where staff has been filling gaps in the current regulations through reference to the Michigan Highway Capacity Manual.

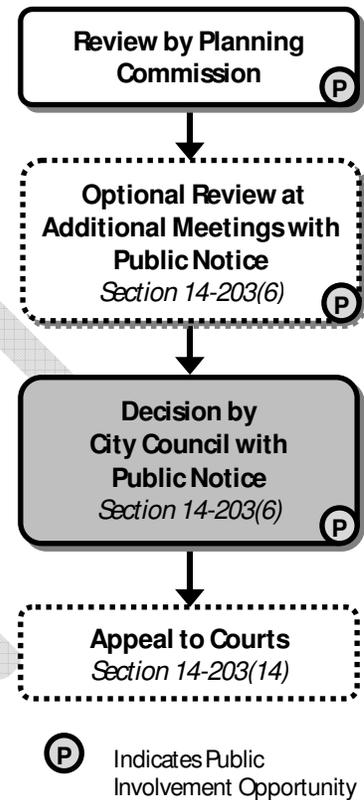
The difference between minor modifications (which can be approved by staff) and other modifications (which require approval by the Planning Commission) will be clarified. Finally, we will clarify that lists of submittal requirements for various applications are found in an administrative document maintained by the Planning and Development Services Unit, and will remove those specifics from the UDC.

Examples of source materials include Chapter 55, Sections 5:93 *Fees*; 5:94 *Certificates of Occupancy*; 5:102 *Appeals*; and 5:110 *Citizen Participation for Petitions that Require Public Hearings*; Chapter 57, Sections 5:134, *Security for Completion of Improvements* and Section 5:133, *Development Agreements*; Chapter 60, Section 5:220 *Appeal or Variance* and 5:217 *Fees*; Chapter 61, Section 5:517 *Appeals*; and Chapter 63, Sections 5:660 *Fees* and 662 *Bond Requirements*

### 4.5.3. Specific Procedures

This section will describe each specific procedure used by Ann Arbor for development review and approval in a series of logical steps. Each procedure will also be graphically illustrated by a flowchart like the one shown at the right. By grouping all the procedures and arranging them by names that applicants commonly know, we will increase ease of use for applicants and reduce uncertainty about the process and criteria for of development review decisions. We will arrange the specific procedures in a logical order based first on the body that makes the decision (i.e., Planning Manager, ZBA, Planning Commission, City Council) and then by frequency of use. For each type of procedure, we will clearly state what criteria are to govern the decision.

### Zoning Text Amendment



### Site Plan Review

One of the most commonly used administrative procedures is the site plan procedure in existing Chapter 57, Section 5:122 *Site Plans*. We will carry that procedure forward and place it at the start of the specific procedures section where it is easy for applicants to find. This section will clarify current City practice regarding requirement of site plan review for terraces, patios, and decks. The text will also clarify that approved site plans are binding on future development, and that approval of a new site plan for a specific site repeals the previously approved site plan. While alternatives can be expressed on a single site plan, there can be no more than one valid site plan for a parcel in effect at the same time. It will clarify that the three year period of site plan validity requires that substantial construction begin within that timeframe, because the timeframe for completion is often outside the control of the owner. The text will clarify the scope of site plan approval and that additional engineering approvals may be necessary during the building process.

### **Administrative Permits**

Various chapters of the current land development regulations set out procedures for administratively approved permits. These include fence permits pursuant to Chapter 104, Section 8:433 *Permit*; grading permits pursuant to Chapter 63, Sections 5:655 *Scope of Application and Grading Permit Requirements*, through 65:659 *Review Standards for the Issuance of Grading Permits*, and Sections 5:662 *Inspection Review* through 5:665, *Modifications of Approved Plans*; and wetland permits pursuant to Chapter 60, Sections 5:206 *Application for Use Permit* through 5:212, *Use Permit Standards and Criteria* and 5:219, *Assessment Revaluation*. We will consolidate the administrative permits procedure in this section, indicating the steps required as well as relevant approval criteria for each permit type.

### **Zoning Compliance Certificate**

This section will carry forward Chapter 55, Section 5:92 *Zoning Compliance Certificate Required*. We will update the language of this section to accurately reflect Ann Arbor's longstanding practice that a zoning compliance certificate is available – but not required – for a change of use within a general use group.

### **Variance**

There are many different variance provisions in the existing code, including Chapter 55, Section 5:99 *Application of the Variance Power*; Chapter 59, Section 5:170 *Variance and Exceptions*; Chapter 60, Section 5:220, *Appeal or Variance*; Chapter 62, Section 5:609 *Variations*; Chapter 63, Section 5:667 *Variations*; and Chapter 104, Section 8:436 *Power of Board of Appeals*. We will consolidate and streamline the many variance provisions and will integrate provisions for “exceptions” in the current code (i.e., we will confirm that “exceptions” are a form of variance). This section will also clarify which criteria apply to all variances and which apply only to variances of specific regulations, such as sign regulations. This section will clarify what “hardship” means based on state court interpretations of that term, and will clarify the limits of the variance process – i.e., what types of changes cannot be achieved through a variance and instead require a rezoning of the land by City Council.

### **Special Exception**

A special exception is the procedure used in Ann Arbor to allow a use that is not permitted by right, but that may be allowed by the planning commission subject to conditions. We will carry forward the provisions of Chapter 55, Article X *Special Exceptions*, with revisions for clarity, and will also clarify that significant modifications of approved Special Exceptions require review by the Planning Commission. The text will be consistent with Michigan state law provisions on Special Land Uses.

### **Rezoning**

As noted above, the provisions of Chapter 55, Article XI, *Amendments*, governs rezonings, and will use that more common term in the revised UDC. This section

will clarify each step in this process, as well as the criteria for approval, and will clarify that a private party may not make an application to rezone land that they do not own without the consent of the owner of the land. This section will incorporate the area plan provision of Chapter 57, which functions as a preliminary approval for rezonings (as well as subdivisions). Provisions for protesting a rezoning will be clarified to better reflect the requirements of state law and to define the way in which protest signatures must be submitted.

### **Planned Unit Development / Planned Project**

This section will consolidate PUD procedures that are currently split between two chapters: Chapter 55, Section 5:80 *Planned Unit Development Regulations and Standards for Approval*, and Chapter 57, Sections 5.123 *Planned Unit Development (PUD) Site Plans* as well as the application requirement provisions of the Land Development Regulations. In addition, planned projects will be clearly differentiated from PUDs. We will set out the procedures for both PUDs and planned projects in this section.

### **Subdivision**

Many sections of Chapter 57 *Subdivision and Land Use Control* contain subdivision procedures. Most relevant are Sections 5:121 *Area Plans*; 5.122 *Plats*; and 5.125 *Land Divisions*. Additional procedures are included in Sections 5.126 *Natural Features Statement of Impact*; 5.129, *Review Criteria for Natural Features Statement of Impact*; 5:130 *Time Limits*; 5:131 *Fees*; 5:132, *Required Approvals and Compliance*; and 5:135 *Public Information and Hearings*. Some subdivision application requirements are also listed in the Land Development Regulations, which are incorporated by reference in Chapter 57. Where these sections address topics that are now consolidated into the General Procedures section, we will integrate them into that section. This section will then consolidate and streamline the remaining provisions into a clear, sequential subdivision procedure. We will also fold the area plan section that functions as a preliminary approval into the land division approval procedure.

### **Code Text Amendment**

In this section we will set out the procedure for amendments to the code text. This is an infrequently used procedure that is authorized somewhat obliquely in Chapter 55, Article XI, Section 5:109 *Comprehensive Review of Chapter*. We will specify each step in this procedure based on the existing code language, state law, and current practice.

## **4.6. Article VI. Nonconformance**

This short article will carry forward and consolidate the language from existing Chapter 55, Article VII *Nonconformance*; Chapter 59, Section 171 *Nonconforming Uses*; Chapter 60, *Nonconforming Activities*; and Chapter 62, 5:611 *Nonconforming Sites*. We will separate and

clarify language related to nonconforming uses, nonconforming structures, nonconforming lots, and nonconforming signs and site improvements. The section will also clarify how “expansion of a nonconformity” is measured – for example, whether a horizontal lengthening or vertical extension of a wall that is located too close to a property line is an expansion of that nonconformity. In addition, standards for replacement of a nonconforming use will be clarified.

#### 4.7. Article VII. Enforcement, Violations, and Penalties

This article will consolidate the many scattered enforcement, violation, and penalty sections of the existing code, such as Chapter 55, Section 5:105 *Violations*, and 5:106, *Penalties*; Chapter 57, Sections 5:125(4) *Consequences of Noncompliance with Land Division Approval Requirement*, 5:134, and 5:138 *Penalties*; Chapter 59, Section 5:172 *Penalties*; Chapter 60, 5:218 *Penalties and Enforcement*; Chapter 61, Section 5:518 *Penalties and Enforcement*; Chapter 62, Section 5:612 *Enforcement*; and Chapter 63, Sections 5:669 *Failure to Complete Work*, and 5:670 *Enforcement, Violations, and Penalties*.



We will consolidate these sections to reduce repetition. Where some procedures or enforcement mechanisms are available for only certain types of development, we will clearly indicate where they apply. The consolidation of these materials will create a platform for the City to consider whether some enforcement tools that are currently authorized for only certain provisions of the code might be expanded to general applicability in the next, substantive phase of the code revision process. The difference between “misdemeanor” and “civil infraction” penalties will be clarified. To address a weakness of the current regulation, this section will clarify who is responsible for infractions (the owner?, the occupant?) and who enforcement action may be taken against.

#### 4.8. Article VIII. Definitions

This article consolidates and carries forward existing definitions from scattered locations throughout the land development chapters of the current code. Our experience suggests that readers are more likely to look for defined terms at the end of a document, like a glossary in a book. Moreover, since most code users refer to the definitions section only when they encounter a term whose precise meaning is unknown, it makes sense to move them to the final chapter where they will not bog down those who are interested in getting to the substance of the regulations.

As discussed in Section 3.1.1 of this Diagnosis, we will add or clarify a number of definitions that have been noted by code users as vague or missing. Clear definitions of important words and phrases not only make life easier for those who must interpret and administer the ordinance and for those who must hear appeals of decisions made by staff – they also

make it much easier for the public to know what is required. Where uses listed in the Permitted Use Table are not defined, standard definitions will be added. We may rename some terms in order to avoid having different codes (for example, the UDC and the building code) using the same term with different meanings. Finally, definitions will be checked for consistency with the federal Telecommunications Act, Fair Housing Act Amendments, Americans with Disabilities Act, and Manufactured Home Act.

Source material for this article includes existing Chapter 55, Section 5:1; Chapter 57, Section 5:120; Chapter 59, Section 5:161; Chapter 60, Section 5:201; Chapter 61, Section 5:501; Chapter 62, Section 5:601; Chapter 63, Section 5:652; Chapter 104, Section 8:431; and other definitions scattered through the code.

DRAFT