

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 15, 2022

SUBJECT: Amendments to Chapter 55 (Unified Development Code) related to Marijuana Licenses (Section 5.16.3.G), Trees in the Right-of-Way (Section 5.20.10), and Landscape Modifications (Section 5.30.1)

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 Unified Development Code as proposed and generally described as:

Section 5.16.3.G, to eliminate marijuana license type and numbers of licenses per lot as well as reorganize for clarity;

Section 5.20.10, to exclude curb cuts from street tree planting frontage calculations and remove references to street tree escrow; and,

Section 5.30.1, to add eligibility and conditions to modify street tree planting requirements by landscape modifications, as well as clarifications and reorganization.

STAFF RECOMMENDATION:

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

SUMMARY:

Three of five proposed amendments to the Unified Development Code are presented below, including 1) an amendment to eliminate the restrictions on marijuana facility types and licenses per lot, as well as reorganize the section, 2) an amendment to exclude curb cuts from the length calculations for street trees, and eliminate street tree escrows, and 3) an amendment to include street trees for landscape modification, as well as clarify and reorganize the section.

The other two amendments are proposed separately, involving Table 5.15-1 (Primary Uses) and Table 5.17-2 (Two-Family Residential Zoning District Dimensions).

All five amendments were postponed by the Planning Commission following a public hearing on March 1, 2022 because of technical difficulties in broadcasting and Zoom-ing at the start of the meeting, resulting in a significant delay and possible public participation barrier. The amendments are now presented in two groups.

REPORT:

All five amendments are included in the attached Ordinance to Amend UDC (M1 Permitted Use, Marijuana Licenses, R2A Dimensional Standards, Trees in the Right-of-Way, Landscape Modifications). The three amendments related to Marijuana Licenses, Trees in the Right-of-Way, and Landscape Modifications are explained and analyzed below. Please see the March 15, 2022 Planning Staff report for explanations and analysis of the proposed amendments related to M1 Permitted Use and R2A Dimensional Standards.

Section 2. Amendments to Section 5.16.3.G (Marijuana Facilities)

Amendments to **Section 5.16.3.G (Marijuana Facilities)** are proposed that eliminates number of State marijuana licenses per lot (paragraph d) and the restrictions on types of marijuana facilities per lot (paragraph e). For simplification, the section has been reorganized to provide all use specific standards by facility rather than listing each facility that is subject to the various standards. Because of the scope of reorganization, the proposed amendment is presented as a replacement instead of tracked changes.

Section 5.16.3.G provides additional standards for several of the nine types of marijuana facilities. One paragraph (d – Number of State Marijuana Licenses Per Lot) regulates how many State marijuana licenses can operate per lot by zoning district. Lots zoned M1, M1A, or M2 (Limited Industrial, Limited Light Industrial, and Heavy Industrial) may have up to 5 licenses per lot. Lots zoned RE (Research) or ORL (Office/Research/Light Industrial) may have up to 2 licenses per lot, and lots in all other zoning districts may have just 1 license.

Another paragraph (e – Types of Marijuana Facilities Per Lot) regulates the types of uses that may be located on a lot by stating that “no more than one type of the following uses shall be located on a lot.”

Staff noted it no longer seemed necessary, or beneficial, to regulate both the number of state licenses per lot and the types of uses that may be located on a lot for several reasons. Regarding the number of licenses per lot, the State now allows the same business to “stack” licenses. Rather than allow an increased number of plants for a grower, the State now issues one business two or more licenses. Paragraph e is potentially in conflict with State procedures.

Regarding the types of facilities per lot, the current language can be interpreted two ways. One interpretation is no more than one of any listed type may be located on a lot, and therefore, lots that may have 2 or more licenses must have two and up to five different types of uses. It can also be interpreted that no more than one of type of use is permitted per lot, and therefore, lots that may have two or five licenses must have two or five of the same uses – and maybe under different ownership in conjunction with paragraph d (Number of State Licenses Per Lot).

Staff presented three options to the Ordinance Revisions Committee at their October 26, 2021 meeting. First, to only change the number of licenses per lot. Second, to only change the regulations on types of licenses per lot, and third, to change both standards. The ORC directed staff to present amendments that eliminated both standards.

Because all other standards remain, there may still only be a maximum of 28 total provisioning center/retails, and a maximum of 28 designated consumption facilities. Further, provisioning center/retailers and microbusinesses must be at least 600 feet apart from one another, and

provisioning center/retailers, growers, microbusinesses, designated consumption facilities, processors and infused product processors must be at least 1,000 feet from a K-12 school.

More background and analysis are provided in the October 26, 2021 Planning Staff Memo to the Ordinance Revisions Committee, attached.

Section 4. Amendment to Section 5.20.10 (Trees in the Public Right-of-Way)

An amendment is proposed to Section 5.20.10 to exclude curb cut widths from the frontage calculations for required street trees and to remove references to street tree escrows. The change to exclude curb cuts when measuring frontage for street tree requirements will reduce or prevent harm to the trees from being planted too closely.

Eliminating the street tree escrow has several benefits, but will not result in significant changes overall. First, the change will relieve developers from the redundancy of depositing an escrow as well as posting security (sometimes referred to as a bond) for incomplete work when a certificate of occupancy is requested. For example, some projects near completion outside of planting seasons and are permitted to post security for plants until the next planting season. Another benefit is staff will no longer have to manage escrow deposits and refunds along with routine inspections, compliance monitoring, and the work related to collecting, managing, and refunding security.

Because the security requirements for incomplete work remain (see Section 5.28.8), there are still assurances that street trees will be planted despite eliminating the street tree escrow provisions.

A heading is proposed for paragraph A for consistency. The amendments to this section were requested by Public Services staff.

Section 5. Amendment to Section 5.30.1 (Landscape Modification)

Amendments are proposed to **Section 5.30.1** to include a new eligible requirement for modification (street trees) and provide the acceptable conditions for such modifications, to generally update the acceptable conditions to better match actual scenarios and common conditions, and to reorganize the section in a simpler, more straightforward layout.

Regarding new eligibility, staff propose to allow Section 5.20.10 (Trees in the Public Right-of-Way) to be considered for a landscape modification when “planting a new street tree is prevented by an existing and unmovable obstruction, impediment, or public infrastructure such as, but not limited to, fire hydrants, overhead utility lines, poles, traffic control devices, transit shelters, barrier-free access routes, etc.”

Regarding general updates to acceptable conditions, staff propose the following changes:

1. Revising awkward wording about topographic features, and more clearly explaining that modifications may be acceptable when the topography or elevation of a site relative to an adjacent site make the normal requirements less effective than an alternative design.

2. Revising awkward wording about existing vegetation, and more clearly explaining that modification may be acceptable if strictly following the normal requirements does more damage to existing vegetation than overall good.
3. Replacing currently acceptable conditions regarding bioretention areas, native or prairie plantings, structural amenities or xeriscaping and newly addressing increasing scenarios involving contaminated soils and sizable underground culverts such as Allen Creek drain.
4. Eliminating planned projects as these have been retired from the code.

Regarding reorganization, this section is proposed to be dividing into paragraphs that address eligible requirements sections, modification conditions, standards for approval, and approval procedures in a step-by-step, easier to follow format.

The amendments in this section are suggested jointly by Planning and Public Services staff.

Prepared by Alexis DiLeo
Reviewed by City Planners
2-24-22

Attachments: Ordinance to Amend UDC (M1 Permitted Use, Marijuana Licenses, R2A
Dimensional Standards, Trees in the Right-of-Way, Landscape
Modifications)
October 26, 2021 Memo – Amendment to Marijuana Facility Use Specific
Standards

c: City Attorney's Office

UNIFIED DEVELOPMENT CODE
(M1 PERMITTED USE, MARIJUANA LICENSES, R2A DIMENSIONAL STANDARDS,
TREES IN RIGHT-OF-WAY, LANDSCAPE MODIFICATIONS)

AN ORDINANCE TO AMEND SECTIONS 5.16.3.G, 5.20.10 AND 5.30.1, AND TABLES 5.15-1 AND 5.17-2 OF CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Table 5.15-1 in Section 5.15.1 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is amended as follows:

TABLE 5.15-1: PRIMARY USE TABLE

SEE TABLE BOTTOM NOTES FOR IMPORTANT NOTES.

[illegible]

TABLE 5.15-1: PRIMARY USE TABLE

SEE TABLE BOTTOM NOTES FOR IMPORTANT NOTES.

USE CATEGORY AND TYPE	RESIDENTIAL						MIXED USE									NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS		
	AG R1A, B, C, D, E	R2A	R2B	R3	R4A, B, C, D, E	R6	O	C1	C1A	C1B	C1A/R	D1	D2	C2B	C3	TC1	R5	P	PL	RE	ORL		M1, M1A	M2
PUBLIC/INSTITUTIONAL																								
Community and Cultural																								
Cemetery	P																							
Club Headquarters, Community Center				E		E		E	P	P	P	P	P	P	P	P								5.16.2C
Conference Center												E								E				
Correctional Facility																			P					
Museum, Art Gallery												P	P	P	P	P			P					
Funeral Services								P	P	P	P	P	P	P	P	P						P	P	
Government Offices and Courts								P	P	P	P	P	P	P	P	P			P			P		
Library		P	P	P	P	P		P	P	P	P	P	P	P	P	P			P			P		
Park, Recreation and Open Space																			P					5.16.2G
Religious Assembly	P	E	E	E	E	E		E	P	P	P	P	P	P	P	P						P (exclud. M1A)		
Day Care																								
Adult Day Care Center		E	E	E	P	P		P	P	P	P	P	P	P	P	P					E	P	P	5.16.2A
Child Care Center		E	E	E	P	P		P	P	P	P	P	P	P	P	P					E	P	P	5.16.2B
Educational																								
Institutions of Higher Learning, Private		E	E	E	E	E		P	P	P	P	P	P	P	P	P						P	P	5.16.2E
Institutions of Higher Learning, Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
School, Private		E	E	E	E	E		E	P	P	P	P	P	P	P	P								
School, Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
School, Trade/Industrial									P	P	P	P	P	P	P	P			P		P	P	P	
Health Care																								
Hospital						E		E	E	E	E	E				P			P			E		5.16.2D

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USE CATEGORY AND TYPE	RESIDENTIAL						MIXED USE									NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS			
	AG	R1A, B, C, D, E	R2A	R2B	R3	R4A, B, C, D, E	R6	O	C1	C1A	C1B	C1A/R	D1	D2	C2B	C3	TC1	R5	P	PL	RE		ORL	M1, M1A	M2
Nursing Care Facility						P		P	P	P	P	P	P	P	P	P	P	P					P	P	5.16.2F
Lodging																									
Bed and Breakfast													P	P	P	P	P	P							
Hotel								P	P	P	P	P	P	P	P	P	P	P							
Short-Term Rental – Non-Principal Residence								P	P	P	P	P	P	P	P	P									
Recreation, Entertainment, and Arts																									
Adult Entertainment Business																							P (exclud. M1A)	P	5.16.3A
Artist Studio								P	P	P	P	P	P	P	P	P	P						P	P	5.16.3B
General Entertainment									P	P	P	P	P	E	P	P	P								5.16.3D
Indoor Recreation								E	P	P	P	P	P	P	P	P	P			P		E	E	E	5.16.3F
Outdoor Recreation	P	E	E	E	E	E									P	P				P		E			5.16.3K
Sales																									
Automobiles, Motorcycles, Recreational Vehicles, Equipment (Sales and Rental)													E	E	P	P							P		
Designated Marijuana Consumption Facility										E	E	E	E	E	E	E	E								5.16.3G
Fueling Station													E	E	E	P								P	5.16.3E
Outdoor Sales, Permanent									P	P	P	P	P	P	P	P	P								5.16.3L
Medical Marijuana Provisioning Center, Marijuana Retailer									E	E	E	E	E	E	E	E	E						E	E	5.16.3G
Mobile Food Vending Service								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.16.3I
Restaurant, Bar, Food Service									P	P	P	P	P	P	P	P	P								5.16.3P
Retail Sales, General Merchandise									P	P	P	P	P	P	P	P	P								

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USE CATEGORY AND TYPE	RESIDENTIAL						MIXED USE									NONRESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS			
	AG	R1A, B, C, D, E	R2A	R2B	R3	R4A, B, C, D, E	R6	O	C1	C1A	C1B	C1A/R	D1	D2	C2B	C3	TC1	R5	P	PL	RE		ORL	M1, M1A	M2
Pilot Manufacturing																					P	P	P	P	
Scrap and Waste Material																								E	
Slaughterhouse																								E	
Utilities and Communications																									
Broadcasting Facility													P	P	P	P	P						P	P	
Data Processing and Computer Centers								P	P	P	P	P	P	P	P	P	P				P	P	P	P	
Electric, Gas, and Sanitary Services																							P	P	
Power and Fuel Rights-of-Way																								P	
Wireless Communication Facilities	P							P	P			E	E	E	P	P		E		P	P	P	P	P	5.16.5D
Warehousing and Storage																									
Medium Term Car																			E						5.16.3J
Short Term Car Storage																			P						5.16.3O
Outdoor Storage																									
Warehousing and Indoor Storage																P							P	P	

Table Bottom Notes:

See Section 5.15 for table key.

All properties are subject to the additional standards indicated for that use in the right column (Use-Specific Standards).

All properties in overlay districts are subject to the additional use regulations in Section 5.13

Specific uses in the C1A/R, RE, and ORL districts are subject to the additional standards found in Sections 5.12.5 .B , 5.13.4 .B and 5.13.5.B respectively.

All uses in the TC1 district are subject to the additional standards found in Section 5.16.3P.

Section 2. That Section 5.16.3.G of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is amended to delete paragraphs d and e, and be reorganized, to read as follows:

G. Marijuana Facilities

1. Intent

- a. It is the intent of this section to provide appropriate locations and reasonable restrictions for Marijuana Facilities allowed by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* These are unique land uses with ramifications not addressed by more traditional zoning district regulations.
- b. It is the intent of this section to provide appropriate locations and reasonable restrictions for the cultivation and transfer of Marijuana allowed by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.* and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* These are unique land uses with ramifications not addressed by more traditional zoning district and Home Occupation regulations.
- c. It is the intent of this section to protect the health, safety, and general welfare of Persons and property by limiting land uses related to Marijuana to districts that are compatible with such uses. Additional regulations in this section are intended to provide reasonable restrictions within districts so that these uses do not compromise the health, safety, and general welfare of Persons in the district, or other uses allowed in each district.

2. Words and Phrases

Words and phrases contained in the Michigan Medical Marihuana Facilities Licensing Act (“MMFLA”), MCL 333.2701 *et seq.*, the Michigan Medical Marihuana Act (“MMMA”), MCL 333.26421 *et seq.*, or the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* (“MRTMA”), shall have the same meanings in this Code, as applicable. Article VIII of this chapter contains some words and phrases that are defined in the MMFLA, the MMMA, or the MRTMA, but if any definition in Article VIII conflicts with the definition in the MMFLA, MMMA, or MRTMA, then the definition in the applicable state act shall apply.

3. All Marijuana Facilities

- a. No approvals under this chapter shall be granted for any Marijuana Facilities in excess of any limits on permits for facilities in the City established by Chapter 96 of the City Code or other actions of the City.
- b. No Person shall reside in or permit any Person to reside in a Marijuana Facility, except as allowed in the M1 and M2 zoning districts.

- c. No smoking, inhalation, or consumption of Marijuana shall take place on the Premises of any Marijuana Facility.
- d. Exception: A Designated Marijuana Consumption Facility may permit smoking, inhalation, or consumption of Marijuana on the premises.
- e. All activities of a Marijuana Facility shall be conducted indoors.
- f. No equipment or process shall be used in any Marijuana Facility which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the Premises.

4. Any Marijuana Facility Special Exception Use

In addition to the requirements in Section **Error! Reference source not found.**, the following information shall be provided to the Planning Commission for consideration of an application for Special Exception Use. Additional information from what is listed below may be requested by staff or the Planning Commission.

- a. A description of how deliveries are handled, methods of storage, a business floor plan, or other pertinent information.
- b. A detailed safety and security plan that addresses Marijuana, customers, employees, and neighboring residents, offices, or businesses.
- c. A description of methods to be used to contain all odors within the Building.
- d. A waste disposal plan specific to Marijuana, Marijuana Plant waste, and Marijuana-Infused Products.
- e. Days and hours of operation.

5. Marijuana Provisioning Centers/Marijuana Retailers

- a. A Marijuana Retailer is a permitted use at a location where a Medical Marijuana Provisioning Center Special Exception Use Permit has been approved, with or without the continued Medical Marijuana Provisioning Center use. Any operation of the Medical Marijuana Provisioning Center, a Marijuana Retailer, or combination of the two, shall comply with all conditions of the Special Exception Use approval for the Lot.
- b. A Lot containing a Medical Marijuana Provisioning Center and/or a Marijuana Retailer shall be located at least 600 feet from any Lot on which either a Medical Marijuana Provisioning Center, Marijuana Microbusiness, or Marijuana Retailer is located.
- c. A Lot containing a Medical Marijuana Provisioning Center and/or a Marijuana Retailer shall be located at least 1,000 feet of a Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.
- d. A Medical Marijuana Provisioning Center or Marijuana Retailer may only be located within a PUD in compliance with the standards in this Section 5.1.1G and where retail use is permitted in the PUD Supplemental Regulations.

- e. An application for a Medical Marijuana Provisioning Center and/or a Marijuana Retailer in the M1, M1A, or M2 zoning district may only be approved if the Medical Marijuana Provisioning Center and/or Marijuana Retailer is incidental to the Principal Activity or Principal Use and the Floor Area devoted to the Medical Marijuana Provisioning Center and/or Marijuana Retailer does not exceed 10% of the Floor Area of the Principal Marijuana Facility.

6. Marijuana Growers

- a. A Lot containing a Marijuana Grower shall be located at least 1,000 feet from any Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.
- b. Applications shall also include a description of the expected volume of water to be used.
- c. Applications shall also include a description of volume, on-site treatment, and any permits required for wastewater for the maximum number of plants allowed in that Marijuana Facility.
- d. Applications shall also include a description and plan of the energy needs, along with any necessary planned improvements, that a minimum of 10% of the Marijuana Facility's energy usage will be provide via solar panels on the site.
- e. Annual reporting requirement: A written report or documentation of the energy used, water used, and sanitary sewer discharge from the Marijuana Facility, submitted to the City Clerk.

7. Marijuana Microbusiness

- a. A Lot containing a Marijuana Microbusiness shall be located at least 600 feet from any Lot containing a Provisioning Center/Retailer, or Marijuana Microbusiness.
- b. A Lot containing a Marijuana Microbusiness shall be located least 1,000 feet from any Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.
- c. Applications shall also include a description of the expected volume of water to be used.
- d. Applications shall also include description of volume, on-site treatment, and any permits required for wastewater for the maximum number of plants allowed in that Marijuana Facility.
- e. Applications shall also include a description and plan of the energy needs, along with any necessary planned improvements, that a minimum of 10% of the Marijuana Facility's energy usage will be provide via solar panels on the site.
- f. Annual reporting requirement: A written report or documentation of the energy used, water used, and sanitary sewer discharge from the Marijuana Facility, submitted to the City Clerk.

8. Designated Marijuana Consumption Facility

- a. A Lot containing a Designated Marijuana Consumption Facility shall be located at least 1,000 feet from any Lot on which a pre-existing Public School or Private School, but excluding dance or art schools, is located.

9. Medical Marijuana Home Occupations

Cultivation or other Medical Use of Marijuana as a Medical Marijuana Home Occupation in Single-Family Dwellings shall comply with the following standards:

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

10. Medical Marijuana Use or Cultivation

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

- a. The Principal Use of the Dwelling Unit shall be Residential Occupancy and shall be in actual use as such.
- b. No more than 12 plants for each registered Qualifying Patient who resides in the Dwelling Unit shall be grown.
- c. No Equipment or process shall be used in cultivation which creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property boundary.
- d. All aspects of the Medical Use of Marijuana shall comply at all times with the provisions of the MMMA.

Section 3. That Table 5.17-2 in Section 5.17.3 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is amended as follows:

TABLE 5.17-2 TWO-FAMILY RESIDENTIAL ZONING DISTRICT DIMENSIONS									
NOTE: THE REQUIREMENTS IN THIS TABLE MAY BE SUPERSEDED BY THE STANDARDS IN SECTION ERROR! REFERENCE SOURCE NOT FOUND..									
DISTRICT	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	BUILDING SPACING	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT (FT.)	MINIMUM LOT DIMENSIONS	
			MINIMUM FRONT	MAXIMUM FRONT	MINIMUM SIDE	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
R2A	4,250 <u>2,500</u>	[B]	25 or [A]	None	5	30	30	8,500 <u>5,000</u>	60 <u>40</u>
R2B	4,250 or [C]	[B]	25 [A] [B] [D]	None	8	30	30	8,500	60
NOTES:									
[A] Also see additional regulations in Section Error! Reference source not found. (Averaging an Established Front Building Line).									
[B] Where more than one residential Structure is to be constructed on a Lot in the R2 districts, or where dwellings are served by a private street under the provisions of Section Error! Reference source not found. , the following placement regulations shall also be applied: (a) The minimum spacing between Buildings shall be twice the minimum required side setback dimension of the zoning district in which the Lots is located; (b) A minimum rear setback of 30 feet must be provided between the rear of a residential Structure and the adjacent (nearest) Lot Line; (c) A minimum front setback of ten feet must be provided between all Structures and the private street pavement.									
[C] Except for Fraternity Houses, Sorority Houses, Student Cooperative Housing, and Group Housings, for which minimum net Lot Area shall be 350 sq. ft. per occupant.									
[D] Or the Established Front Building Line existing on the date this ordinance is adopted, whichever is larger.									

Section 4. That Section 5.20.10 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is amended as follows:

5.20.10 Trees in the Public Right-of-Way

A. Authority

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

H.B. ~~Street Trees Required With~~ Site Plan ~~Developments~~ Requirements

Site plan Developments shall provide One-one street tree of the minimum size and species meeting City standards shall be provided for every 45 linear feet of existing and proposed public Street Rights-of-Way, minus the width of Curb Cuts, abutting and within a site plan Site proposed Development. Proposed street trees shall meet the City standards for minimum size and species. Existing trees meeting City standards may be used to satisfy all or part of this requirement. ~~A street tree eserow formula shall be~~

~~established and administered by the Public Services Area for the purpose of planting trees on the public Street Right-of-Way abutting new Developments. Deposits into the street trees escrow shall be required prior to issuance of a building permit for the approved Development and shall be returned upon acceptance of the planted street trees.~~

Section 5. That Section 5.30.1 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is amended as follows:

5.30.1 Landscape Modifications

~~Flexibility in the application of the landscaping or screening requirements of Sections 5.20.3, 5.20.4, 5.20.5, 5.20.6, or 5.20.7 may be allowed as provided in this section.~~

A. Eligible Requirements Sections

The following sections providing landscaping and screening requirements may be modified as provided in this section:

1. Section 5.20.3 (Vehicular Use Area Landscaping and Screening)
2. Section 5.20.4 (Conflicting Land Use Buffers)
3. Section 5.20.5 (Private Streets and Shared Driveway Buffers)
4. Section 5.20.6 (Refuse/Recycling Container Screening)
5. Section 5.20.7 (Material and Design Standards)
6. Section 5.20.10 (Trees in the Public Right-of-Way)

B. Modification Conditions

The eligible landscaping and screening requirements may only be modified in one of the following conditions:

1. The Site is located in a special parking district as designated in Section **Error! Reference source not found.**
2. Strict application of this chapter will result in a loss of existing Parking Spaces required by Sections **Error! Reference source not found.** or **Error! Reference source not found.** and the Site does not abut residential uses.
3. ~~The topographic~~topography or elevation features of the Site relative to adjacent sites is such that the required landscaping and screening ~~create conditions so that the strict application of the provisions of this chapter will result in~~be less effective screening and landscaping than alternative landscape designs to achieve the same purpose.
4. Existing vegetation and landscaping are located or spaced in such a manner that the addition of required landscaping would be detrimental to the plant material or create undesirable conditions. ~~Planting or installing required landscaping and screening materials would be more detrimental~~

to existing vegetation and would result in conditions less desirable or effective for landscaping and screening than if located and spaced as required.

5. ~~The use of Bioretention areas, Native or Prairie Plantings, structural amenities or Xeriscaping would prevent strict application of this chapter.~~ The soil conditions underlying the required landscaping and screening area prevent strict application of the requirements because, for example, soils are contaminated, soils are unsuitable for infiltration, or there is a significantly sized and shallow depth public utility such as a main or enclosed culvert.

~~In the case of planned projects or planned unit developments, a rearrangement of the landscaping elements will achieve the spirit and intent of this chapter.~~

- ~~4.6.~~ Landscape elements which are a part of a previously approved site plan may be maintained and continued as nonconforming provided no Alterations of the existing landscape elements are proposed.

7. Planting a new street tree is prevented by an existing and unmovable obstruction, impediment, or public infrastructure such as, but not limited to, fire hydrants, overhead utility lines, poles, traffic control devices, transit shelters, barrier-free accessible routes, etc.

C. Standards for Approval.

A modification may be ~~allowed~~ approved if each of the following conditions are met:

1. The modifications are consistent with the purposes stated in Section **Error! Reference source not found.**
 - e. The modifications are associated with one or more of the ~~following Site~~ conditions provided in paragraph B above.
 - ~~a. The Site is located in a special parking district as designated in Section 5.19.3~~
 - ~~b.a. Strict application of this chapter will result in a loss of existing Parking Spaces required by Sections 5.19.2 or 5.19.3 and the Site does not abut residential uses.~~
 - ~~c.a. The topographic features of the Site create conditions so that the strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs.~~
 - ~~d.a. Existing vegetation and landscaping are located or spaced in such a manner that the addition of required landscaping would be detrimental to the plant material or create undesirable conditions.~~
 - ~~e.a. The use of Bioretention areas, Native or Prairie Plantings, structural amenities or Xeriscaping would prevent strict application of this chapter.~~

~~f.a. In the case of planned projects or planned unit developments, a rearrangement of the landscaping elements will achieve the spirit and intent of this chapter.~~

~~g.a. Landscape elements which are a part of a previously approved site plan may be maintained and continued as nonconforming provided no Alterations of the existing landscape elements are proposed.~~

~~h.f.~~ The Applicant provides a statement of justification identifying which Site conditions warrant the requested modification and how the modification meets the intent of the ordinance as provided in this section.

I.C. Approval Procedures

The modifications shall be specifically approved by ~~a motion by the Planning Commission or City Council, depending on which is~~ the approving body upon finding that the standards of approval have been met.

Section 6. That cross-references be renumbered consistent with this ordinance and other contemporaneous ordinances amendment these sections.

Section 7. This ordinance shall take effect and be in force on and after ten days from legal publication.