



## Legislation Text

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**File #:** 08-0717, **Version:** 1

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An Ordinance to Amend Chapter 55 (Zoning) and Chapter 57 (Subdivision and Land Use Control) of Title V of the Code of the City of Ann Arbor regarding Citizen Participation (CPC Recommendation: Approval - 7 Yeas and 2 Nays) (Ordinance No. ORD-08-29)

Approval of these amendments to Chapter 55 and Chapter 57 will implement an effective process for citizen participation for petitioners seeking approval of planned projects, planned unit developments, rezonings, and major site plans. The objective of the new process is to improve communications between petitioners, citizens who may be affected by development proposals, and City staff. The amendments have been proposed following direction from City Council to develop an internal process for an early notification stage for Ann Arbor citizens.

The Planning & Development Services Unit worked with a core team appointed by the City Council and Planning Commission to develop this process: Council Member Briere, Council Member/Commissioner Lowenstein, and Commissioner Westphal. Staff met internally and with the core team to determine the underlying issues and opportunities of a citizen participation ordinance. As part of the process, staff researched other community ordinances and participated in an exchange with the City of Auburn Hills, the only other city in Michigan with this type of ordinance.

A public meeting was held in April 2008 to explore options for the ordinance. Over 160 stakeholders were invited to attend the meeting to provide comment. In addition, opinions were solicited from the stakeholders through an email survey. Stakeholders included real estate developers, interested citizens, representatives of all registered residential neighborhood groups, professional consultants, and local agencies. A follow-up meeting with the Ann Arbor Chamber of Commerce was also held in April.

The City Planning Commission, at its meeting of June 3, 2008, recommended approval of the proposed amendments, with a revision to the "Required Notice" section of the proposed ordinance: written information mailed by the petitioner to property owners, residents and registered neighborhood groups within 500 feet of the project site, rather than 1,000 feet.

Prepared by: Laurie Foondle, Management Assistant

Reviewed By: Mark Lloyd, Planning & Development Services Manager and Jayne Miller, Community Services Administrator

Approved By: Roger W. Fraser, City Administrator

ORDINANCE NO. ORD-08-29

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### ZONING AND SUBDIVISION AND LAND USE CONTROL

AN ORDINANCE TO AMEND CHAPTERS 55 AND 57 OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor ordains:

Section 1. That Section 5:71 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:71. Approval procedure.

- (1) The planned project application, site plan and other required materials shall be filed with the planning and development services manager or designee. The planning and development services manager or designee shall review the materials filed and, after conferring with the applicant and appropriate city service areas, shall submit a report and recommendation to the Planning Commission. The Planning Commission shall make a report and recommendation to the City Council. The City Council shall approve or reject the planned project within 90 days of the date it receives a report from the Planning Commission or such reasonable extension of time as may be necessary for adequate review.
  - (a) Before submitting a planned project application for formal review, the applicant shall comply with section 5:110 (citizen participation for petitions that require public hearings).
  - (b) Pre-Petition Conference. Before submitting a petition, the applicant shall contact the planning and development services manager or designee to schedule a pre-petition conference. At the conference the petitioner shall present the proposed conceptual site plan and development program. The staff may provide the applicant with their comments regarding compliance with ordinance of the proposed land uses, the proposal's conformance with adopted Master Plan and policies, and whether the project will require citizen participation, consistent with section 5:110.
- (2) Approval of a planned project by City Council shall state the modifications of the zoning ordinance and any specific conditions. Such modifications become part of the approved planned project and site plan and allow the location of improvements on the site according to the plan.
- (3) The approval of the application by the City Council shall allow the planning and development services manager or designee to issue a zoning compliance permit in conformity with the application as approved. This permit shall specify the exact modifications to the provisions of this chapter which have been approved for this planned project. The holder of this zoning compliance permit may then proceed with the project in conformity with other code requirements.
- (4) For 3 years from the date of approval of the planned project, permits may be issued and the land developed consistent with the planned project plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and

ordinances are made applicable to previously approved planned project plans. After 3 years from approval, a building permit shall not be issued unless the planned project is reconsidered by Planning Commission and City Council in the manner provided for new planned projects.

Section 2. That Section 5:80 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:80. PUD Planned unit development regulations and standards for approval.

The provisions of this section shall apply to all PUD zoning districts:

(1) *Definitions.*

(a) *Conceptual PUD plan:* A graphic depiction in plan form of the elements of a planned unit development district which illustrates the PUD development program and the district's supplemental regulations.

(b) *PUD development program:* A written document describing the objectives, purposes, and beneficial effect for the city proposed to be achieved by the PUD zoning district.

(c) *Supplemental regulations:* A written document which contains the zoning and site development requirements which, once approved, become part of the ordinance establishing the PUD zoning district, and, in addition to current city regulations and ordinances, will be in effect for the district.

(2) *Modifications permitted.* In order to achieve a beneficial effect for the city, the planning commission may recommend and city council may approve, as part of the supplemental regulations, modifications that increase, decrease, or eliminate the requirements listed below for equivalent land uses and intensities:

(a) Use regulations, and area, height and placement regulations as provided in this chapter, except that a modification allowing greater residential density may be approved only if the PUD zoning district proposed provides for dwelling units as affordable housing for lower income households as specified in section 5:80(6) (e).

(b) Off-street parking requirements as provided in Chapter 59 (Off-Street Parking).

(c) Landscaping, screening, and buffer requirements as provided in Chapter 62 (Landscape and Screening).

(3) *The PUD process.* The PUD process shall involve 35 consecutive steps: citizen participation, pre-petition conference with staff, pre-petition conference with Planning Commission, PUD zoning district review, and PUD site plan review. The pre-petition conference occurs before the petitioner has submitted a formal petition; zoning district and site plan reviews occur after the petitioner has submitted a formal petition. The

PUD site plan review may occur only if the PUD zoning district has been approved as required by this chapter.

(a) Before submitting a PUD application for formal review, the petitioner shall comply with section 5:110 (citizen participation for petitions that require public hearings).

(ab) Pre-petition conference *with staff*. Before submitting a petition, the petitioner shall contact the planning and development services manager or designee to schedule a pre-petition conference. At the conference the petitioner shall present the proposed conceptual site plan and development program. The staff may provide the applicant with their comments regarding compliance with ordinance of the proposed land uses, the proposal's conformance with adopted Master Plan and policies, and whether the project will require citizen participation, consistent with section 5:110.

(c) *Pre-petition conference with planning commission.* Before submitting a petition, the petitioner shall contact the planning and development services manager or designee to schedule a pre-petition conference at a regularly scheduled meeting or a working session of the commission. At the conference, the petitioner shall present the proposed conceptual PUD plan and PUD development program. The commission will take no official action, but the commissioners and staff may provide the petitioner with their comments regarding the appropriateness of the proposed land uses, the proposal's conformance with adopted master plan and policies, the beneficial effects to be achieved, whether or not a model may be required and whether petitioner's requests for zoning district approval and PUD site plan approval should be presented together at the same meeting or independently at separate meetings. No fees will be charged for the preliminary review.

(bd) *PUD zoning district review.* PUD zoning district review involves departmental and commission review of the conceptual PUD plan, the PUD development program, and supplemental regulations to determine consistency with or the appropriateness for deviating from the city's adopted plans and policies and its suitability for inclusion in the land use and zoning plans of the city and adoption by City Council as part of the zoning ordinance. Once approved by the City Council, the property shall be zoned to a PUD zoning district, and use of the property shall be regulated by the supplemental regulations and all other applicable code requirements.

(ce) *PUD site plan review.* Review and approval of a PUD site plan consistent with the requirements of Chapter 57, the supplemental regulations, and the Land Development Regulations is required prior to the issuance of permits. If the PUD zoning district provides that a PUD may be developed in phases, as shown on the conceptual PUD plan, approval of a PUD site plan for each phase is required prior to the issuance of permits for that phase.

(4) *PUD zoning district review submittal requirements.* The petitioner for any PUD zoning district shall submit a complete petition together with the following materials:

- (a) *Ownership*. The entire parcel or parcels for which application is made shall be under 1 ownership, or the application shall be made with the written authorization of all property owners who have a legal or equitable ownership interest in the property or properties. Application for a PUD zoning district may be made only by or with the written authorization of the owner(s) of the parcel(s) involved. All property that is proposed to be part of the development shall be included in the PUD zoning district request.
- (b) A conceptual PUD plan containing the information required by Chapter 57 and the Land Development Regulations for area plans. Such plan shall include, but not be limited to: criteria of area, height, and placement standards; the location and relationships of permitted land uses; parking and circulation systems; landscape features; preserved natural features; proposed phasing, and any other unique physical characteristics which warrant the PUD zoning.
- (c) A boundary survey and legal description of the parcel(s) to be zoned.
- (d) A PUD development program describing the objectives, purposes, and beneficial effect for the city proposed to be achieved by the PUD zoning district; why this beneficial effect cannot be achieved under any other zoning designation; and its conformity to the adopted master plan and policies of the city or detailed compelling justification for departures from the plan and policies.
- (e) Proposed supplemental regulations for the PUD zoning district which shall include, but not be limited to permitted land uses; accessory uses; minimum and maximum standards of lot area and lot area per dwelling unit, if applicable; minimum usable open space in percentage of lot area; minimum required front, side and rear setbacks; maximum height and number of stories. The supplemental regulations shall include sufficient analysis and justification for the beneficial effect and detailed performance standards by which the development will be evaluated and the beneficial effect achieved. Such analysis and justification may include, but are not limited to:
  - (i) A comprehensive analysis of the surrounding neighborhood, providing such details as scale of structures, minimum and maximum height and number of stories, minimum and maximum setbacks, historic or architectural styles or features, building materials and colors, and other unique features and a detailed analysis of how the PUD site plan and design contribute to the neighborhood.
  - (ii) A comprehensive analysis of the unique features of the site, including such components as topography, site orientation, circulation, or special condition and a detailed analysis of how the PUD site plan and design contribute to the preservation, protection, utilization, and enhancement of the site's unique features.
- (f) A study model, indicating the 3-dimensional character of the proposal, unless determined by the Commission during its preliminary review that 1 is

unnecessary. With the approval of the planning and development services manager or designee, other visual representations such as computer-enhanced photography or video may be substituted.

- (g) Any additional graphics, photographs, or written materials requested by the planning and development services manager or designee, commission or City Council to assist the city in visualizing and understanding the proposal and assessing the possible benefits and impacts.
  - (h) Materials supporting a request for additional residential density in accordance with section 5:80(6)(e), where applicable.
- (5) *Procedure for PUD zoning district review.* A PUD zoning district is established as follows:
- (a) All required materials, together with appropriate fees as established by City Council, shall be filed with the planning and development services manager or designee. Copies of the materials will be distributed by the planning and development services manager or designee to the appropriate city service units and other reviewing agencies for review to determine the following:
    - (i) If the development can be accommodated by the existing public utility, street, and general city service facilities, or if any additions to, or extension of facilities are necessary for the project.
    - (ii) If the proposal meets the standards for PUD zoning district approval listed below.
    - (iii) If the development will comply with all applicable local, state, or federal laws, ordinances, standards, and regulations or provides sufficient compelling justification for modifications of those local ordinances, standards or regulations as permitted for PUDs, and
    - (iv) If the proposal conforms to the adopted master plan and policies, or provides sufficient compelling justification for departure from the adopted plan and policies.
  - (b) The planning and development services manager or designee will notify the petitioner of any questions raised by the city service units and other reviewing agencies and shall submit a report to the commission for its consideration including an evaluation of the planning aspects of the project and its impact on the present and future development of the city.
  - (c) The commission shall hold a public hearing with notification as required by this chapter for zoning ordinance amendments.
  - (d) The commission shall recommend to City Council action as it deems proper and shall transmit its recommendation together with any recommended conditions of

approval and all related reports and minutes to City Council.

- (e) Before taking final action on the petition, the City Council shall hold a public hearing with notification as required by this chapter for zoning ordinance amendments.
  - (f) A protest of a proposed PUD zoning district may be presented as provided in this chapter for zoning ordinance amendments.
  - (g) The planning and development services manager or designee shall keep a record of all approved PUD zoning districts and supplemental regulations. Notice of approvals shall be published as required by this chapter for zoning ordinance amendments.
- (6) *Standards for PUD zoning district review.* The commission shall recommend approval, approval with conditions, or denial, and City Council shall approve or deny the proposed PUD zoning district based on the following standards:
- (a) The use or uses, physical characteristics, design features, or amenities proposed shall have a beneficial effect for the city, in terms of public health, safety, welfare, aesthetics, or convenience, or any combination thereof, on present and potential surrounding land uses. The beneficial effects for the city which warrant the zoning include, but are not limited to, features such as:
    - (i) Innovation in land use and variety in design, layout and type of structures which furthers the stated design goals and physical character of adopted land use plans and policies;
    - (ii) Economy and efficiency of land use, natural resources, energy, and provision of public services and utilities;
    - (iii) Provision of usable open space;
    - (iv) Preservation and protection of natural features that exceeds ordinance requirements, especially for those features prioritized in the land development regulations as being of highest concern, or that preserves existing conditions instead of merely providing mitigation;
    - (v) Employment and shopping opportunities particularly suited to the needs of the residents of the city;
    - (vi) Expansion of the supply of affordable housing for lower income households; and
    - (vii) The use and reuse of existing sites and buildings which contributes to the desired character and form of an established neighborhood.
  - (b) This beneficial effect for the city shall be one which could not be achieved under

any other zoning classification and shall be one which is not required to be provided under any existing standard, regulation or ordinance of any local, state or federal agency.

- (c) The use or uses proposed shall not have a detrimental effect on public utilities or surrounding properties.
- (d) The use or uses proposed shall be consistent with the master plan and policies adopted by the city or the petitioner shall provide adequate justification for departures from the approved plans and policies.
- (e) If the proposed district allows residential uses, the residential density proposed shall be consistent with the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, unless additional density has been proposed in order to provide affordable housing for lower income households in the following manner:
  - (i) Proposed PUD projects exceeding the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, by up to 25% shall provide 10% of the total dwelling units as dwelling units affordable to lower income households. Proposed PUD projects exceeding the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, by over 25% shall provide 15% of the total dwelling units as dwelling units affordable to lower income households.
  - (ii) Dwelling units affordable to lower income households shall be provided by the development of units on-site, or payment of an affordable housing contribution in lieu of units consistent with the formula adopted by annual resolution of City Council, or any combination thereof.
  - (iii) When the affordable housing requirement results in a fractional unit, the fractional unit shall be converted to an affordable housing contribution in lieu of units, using the following formula: the fraction shall be multiplied by the per-unit PUD affordable housing contribution as determined by the formula adopted annually by City Council.
  - (iv) The commission shall recommend approval, approval with conditions, or denial, and City Council, in its sole discretion, may approve or deny payment of an affordable housing contribution in lieu of units.
  - (v) Provisions to implement the affordable housing proposal shall be included in the PUD supplemental regulations or the development agreement, or both, as determined by the city.
- (f) The supplemental regulations shall include analysis and justification sufficient to



determine what the purported benefit is, how the special benefit will be provided, and performance standards by which the special benefit will be evaluated.

- (g) Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within and to the district shall be provided and, where feasible, the proposal shall encourage and support the use of alternative methods of transportation.
  - (h) Disturbance of existing natural features, historical features and historically significant architectural features of the district shall be limited to the minimum necessary to allow a reasonable use of the land and the benefit to the community shall be substantially greater than any negative impacts.
- (7) *Effect of PUD zoning district approval.*
- (a) Approval of the PUD zoning district by City Council shall rezone the property to a "PUD" zoning classification for the land uses, the area, height, and placement standards, and the objectives, purposes, beneficial effects, and special conditions provided in the PUD development program, the conceptual PUD plan, and supplemental regulations for the zoning district. In the case of differences between plans and written documents, written documents shall govern.
  - (b) The approval shall confer upon the owner or subsequent owners the right to seek PUD site plan approval for the proposal or for any of its approved phases in accordance with Chapter 57, the approved PUD zoning district and supplemental regulations and city regulations and ordinances.
  - (c) A PUD zoning district and its supplemental regulations shall remain in effect as approved until a change to the PUD zoning district has been approved.
- (8) *Changes to a PUD zoning district.* A change to a PUD zoning district may be accomplished by amending the PUD zoning district by the process provided for establishment of a PUD zoning district or by rezoning to a different zoning district pursuant to the procedures of this chapter for zoning ordinance amendments.
- (9) Any deviation from the approved PUD zoning district or PUD site plan, except as authorized in Chapter 57, shall be considered a violation of this chapter and subject to the penalties stated herein.

Section 3. That Chapter 55 of Title V of the Code of the City of Ann Arbor is amended by adding a new Article XII as follows:

## ARTICLE XII. CITIZEN PARTICIPATION

### 5:110. Citizen Participation for Petitions that Require Public Hearings

- (1) Intent. The intent of this section is: 1) to ensure that petitioners seeking approval of

planned projects, planned unit development zoning district, and amendments to the zoning map and other petitions that require public hearings pursue early and effective citizen participation in conjunction with their proposed developments, giving citizens an early opportunity to learn about, understand and comment upon proposals, and providing an opportunity for citizens to be involved in the development of their neighborhood and community; 2) to provide clear expectations and formal guidance for petitioners to gather citizen comments regarding their proposals so that they may respond and attempt to mitigate any real or perceived impacts their proposed development may have on the community; and 3) to facilitate ongoing communications between petitioners and interested or potentially affected citizens throughout the application review process.

(2) Citizen Participation Requirements for Planned Projects, Planned Unit Development Zoning Districts, Amendments to the Zoning Map, and Major Projects. For purposes of this section, a major project is a proposed project that may require additional citizen participation depending on the scope, nature or any unique or unusual characteristics as determined by the Planning and Development Services Unit Manager. Before the Planning and Development Services Unit may accept a petition for a new or amended planned project, a new or amended planned unit development zoning district, or amendments to the zoning map, the following requirements shall be completed by the petitioner:

(a) Preliminary Meeting with the Planning and Development Services Unit. The petitioner shall meet with the Planning and Development Services Unit to review the requirements set forth in this Section.

(b) Required Notice. The petitioner shall mail written information about citizen participation to all property owners, addresses and registered neighborhood groups within 1,000 feet of the proposed petition site, as well as the Planning and Development Services Unit, at least 10 business days prior to the date of the Citizen Participation Meeting. Addresses shall be provided by the Planning and Development Services Unit. An electronic copy of the information must also be provided to the Planning and Development Services Unit at least 10 business days prior to the date of the Citizen Participation Meeting to be forwarded to other interested citizens registered with the Planning and Development Services Unit. At a minimum, the written information shall include all of the following in a format provided by the Planning and Development Services Unit:

1. A statement explaining the citizen participation requirements, including explanation of why and to whom such information is being sent, the opportunities for participation, and how the information gathered through the citizen participation process will be used by the petitioner.

2. A statement that a petition is being prepared for submittal along with a written description of the proposal and a conceptual sketch of the development and site plan.

3. The petitioner's schedule for citizen participation meetings, the anticipated

petition submittal date and the anticipated City review and approval schedule.

4. The date, time, and location of the meetings.

5. How those sent notices will be provided an opportunity to discuss the application with the petitioner and express any concerns, issues, or problems they may have with the proposed project.

(c) Citizen Participation Meeting. The petitioner shall hold at least one citizen participation meeting at least 10 business days prior to the established petition submittal deadline. The meeting shall be organized and held in accordance with the Citizen Participation Meeting Guidelines provided by the Planning and Development Services Unit.

(d) Final Citizen Participation Report. The petitioner shall provide a written report in a format provided by the Planning and Development Services Unit on the results of its citizen participation activities along with the required petition. At a minimum, the report shall include all of the following information in a format provided by the Planning and Development Services Unit:

1. Detailed description of the petitioner's efforts used to involve citizens, including: dates and locations of all meetings; and copies of all written materials prepared and provided to the public, including letters, meeting notices, emails, newsletters and other publications;

2. A written statement of the number of citizens sent notices by mail, email or other, the number of citizens attending meetings, and copies of attendance or sign-in sheets of meetings.

3. A written summary of comments, concerns, issues, and problems expressed by citizen participants; a statement of how the petitioner has addressed or intends to address these concerns, issues or problems, or why a concern, issue or problem cannot or will not be addressed.

(3) Citizen Participation Requirements for Other Projects. For any other type of petition that requires a public hearing under this chapter, but is not specified in Section 5:110 (2), the following requirements shall be completed by the petitioner:

(a) Required Notice. The petitioner shall mail written information about citizen participation to all property owners, addresses and registered neighborhood groups within 500 feet of the proposed petition site, as well as the Planning and Development Services Unit, within 5 business days of acceptance of the petition by the Planning and Development Services Unit. Addresses shall be provided by the Planning and Development Services Unit. An electronic copy of the information must also be provided to the Planning and Development Services Unit within 5 business days of acceptance of the petition to be forwarded to other interested citizens registered with the Planning and Development Services Unit.

At a minimum, the written information shall include all of the following in a format provided by the Planning and Development Services Unit:

1. A notice that a petition has been submitted with a written description of the proposal and a conceptual sketch of the development and site plan.
2. How those sent notices will be provided an opportunity to discuss the application with the petitioner and express any concerns, issues, or problems they may have with the proposed project.

(b) Citizen Participation Report. The petitioner shall provide the Planning and Development Services Unit with written documentation of any meetings or discussions that are held with citizens at least 10 business days prior to the planning commission public hearing on the petition.

Section 4. That Chapter 55 of Title V of the Code of the City of Ann Arbor is amended by changing the previous Article XII as follows:

#### **ARTICLE ~~XII~~XIII. LEGAL STATUS PROVISIONS AND EFFECTIVE DATE**

5:112. Severability.

- (1) It is the legislative intent of the council in adopting this chapter that all provisions and sections thereof shall be liberally construed to protect and preserve the peace, health, safety and general welfare of the inhabitants of the City of Ann Arbor and, further, that should any provision, portion, section or subsection of this chapter be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, portions, sections or subsections; it being the intent of the council that this chapter shall stand, notwithstanding the invalidity of any provision or section or any part thereof.

5:113. Repeal of existing zoning regulations.

- (1) The existing zoning regulations of the City of Ann Arbor, being Chapter 55, Title V, of the 1957 Ann Arbor City Code, as amended, are hereby repealed. The adoption of this chapter, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of Chapter 55, as amended, if the use, so in violation, is in violation of the provisions of this chapter.

5:114. Effective date.

- (1) This ordinance shall take effect and be in force on and after 10 days from publication, pursuant to section 7.4(b)(2) of the City Charter, of a digest, summary or statement of the purpose of this said ordinance.

5:115. Application of ordinance to approved site and area plans.

Where a site plan has heretofore been approved since January 1, 1967, or before if any of the buildings in the plan have been constructed, development may proceed under the provisions of Chapter 55 as existing prior to the effective date of Ordinance 6-70. All proposed developments for which area plans were submitted subsequent to January 1, 1967, and which have obtained area plan approval prior to the effective date of Ordinance 6-70 may proceed to site plan approval under the terms of Chapter 55 of this Code as existing prior to the effective date of Ordinance 6-70 provided that they present their final plan prior to April 2, 1971. If a final site plan is not presented prior to April 2, 1971, then to obtain approval of the site plan must conform to the requirements set forth in Ordinance 6-70.

Section 5. That Section 5:122 and 5:123 of Chapter 57 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:122. Site plans.

- (1) *Necessity.* An approved site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any natural features, except for:
  - (a) Construction of or addition to 1 single- or two-family dwelling or accessory structure on a parcel zoned solely for residential purposes.
  - (b) Removal or disturbance of any natural features on a lot which contains 1 single-family or two-family dwelling and is zoned solely for residential purposes.
  - (c) Construction solely on the interior of a building that does not increase usable floor area.
  - (d) Construction or erection of signs; retaining walls; fences; buffer walls; refuse containers; fire escapes, sidewalks; wireless communication antennas and associated facilities located on buildings or on other existing structures or on previously approved and constructed wireless communications towers; dish antennas and windmills located on buildings; lights; poles; cooling, heating or mechanical equipment when located on a building or occupying a ground area of less than 100 square feet; and freestanding storage buildings of less than or equal to 240 square feet in floor area and less than or equal to 14 feet in height.
- (2) *Site plan procedure.* Before submitting a site plan for formal review, the petitioner shall meet with the planning and development services manager or designee to review the proposal and applicable City requirements. To initiate a formal review, all drawings and other required materials, as specified in this Chapter and the Land Development Regulations, shall be filed with the planning and development services manager or designee. A site plan shall not be considered filed until all drawings and other required materials have been submitted. A site plan may be rejected if these materials are inadequate to make the foregoing determinations. The planning and development services manager or designee shall review the plan with other appropriate City departments and the petitioner and, except in the case of an administrative amendment

to an approved site plan, shall make a report and recommendation on the proposed plan to the Planning Commission.

- (a) Before submitting a site plan application for formal review, the petitioner shall comply with section 5:135 (citizen participation for petitions that require public hearings).
  - (b) Pre-Petition Conference. Before submitting a petition, the petitioner shall contact the planning and development services manager or designee to schedule a pre-petition conference. At the conference the petitioner shall present the proposed conceptual site plan and development program. The staff may provide the applicant with their comments regarding compliance with ordinance of the proposed land uses, the proposal's conformance with adopted Master Plan and policies, and whether the project will require citizen participation, consistent with section 5:135.
- (3) *Site plans for City Council approval.* Except as otherwise provided in this section, City Council shall review and approve or reject a site plan after receiving a report and recommendation from the Planning Commission. The Planning Commission shall submit its report and recommendation to the City Council within 60 days of receiving a report and recommendation from the planning and development services manager or designee. The City Council shall approve or reject the site plan within 30 days of the recommendation by the Planning Commission. If approval is conditioned on changes to the site plan, the petitioner shall submit revised drawings with the necessary changes to the planning and development services manager or designee within 30 days of approval by the City Council or the site plan approval shall lapse. Any changes to a condition placed on the site plan by City Council shall require City Council approval.
- (4) *Site plans for Planning Commission approval.* The Planning Commission shall review and approve or reject a site plan that proposes 1 or more of the following minor modifications only. If a site plan proposes any modification that would require City Council approval in addition to any of the following minor modifications, then the site plan, including the minor modifications, shall be considered in the manner provided for site plans for City Council approval.
- (a) Garages; carports; freestanding automatic teller machines; outdoor storage; freestanding storage buildings greater than 5,000 square feet in floor area or in excess of 5 percent of the lot area or taller than 14 feet in height; more than 1 dish antenna on a parcel; windmills not located on a building; wireless communications towers; and cooling, heating or mechanical equipment occupying a ground area greater than 100 square feet.
  - (b) An addition to an existing building, if the addition does not exceed 10 percent of the existing floor area or 10,000 square feet, whichever is less.
  - (c) Paving or expanding an existing parking lot, or construction of a new access road or driveway.

- (d) Modifications to an approved natural features protection plan or natural features mitigation plan that are not covered under the administrative amendment requirements.
  - (e) Where no approved site plan exists on file with the planning and development services unit, a minor change allowed by the administrative amendment requirements.
- (5) *Administrative amendments to approved site plans.* A minor change to an approved site plan may be approved by the planning and development services manager or designee if the community services area administrator, public services area administrator, and fire chief verify in writing that the change will not significantly alter natural features shown to be preserved nor alter or conflict with the stated conditions of site plan approval. The planning and development services manager or designee shall provide regular reports to the Planning Commission of administrative amendments acted upon by the planning and development services unit. A minor change is 1 or more of the following:
- (a) Change to or addition of development phasing lines.
  - (b) Change in building height that does not create new floor area.
  - (c) Relocation of sidewalks.
  - (d) Change of location or type of landscape or screening materials. Where more landscaping area or materials are shown than required by Chapter 62, these elements may be reduced by no more than 20 percent of the additional amount originally approved.
  - (e) Relocation of refuse collection stations.
  - (f) Internal rearrangement of parking lot.
  - (g) Decrease in building size.
  - (h) Moving a building no more than 10 feet or 5 percent of the distance to the closest property line, whichever is smaller.
  - (i) An increase in building size that does not exceed 10,000 square feet or 10 percent of the floor area, whichever is smaller.
  - (j) Extension of site plan approval for periods up to 2 years if the plan is in compliance with current laws and regulations.
  - (k) Relocation or addition of no more than 50 percent of the approved storm water detention capacity.
  - (l) Change in species or placement of plant material included in an approved

mitigation plan, as long as the change does not result in a reduction of plant material or area from the original plan and the change meets the intent of the approved mitigation plan.

- (m) Substitution of areas to be preserved in an approved natural features protection plan, as long as there is no net loss of preserved area, the cumulative area to be changed does not exceed 250 square feet of the original area to be preserved in the approved protection plan, and the substitution is consistent with the Review Criteria for Natural Features Statement of Impact.
  - (n) Removal of a tree identified on the site plan as a landmark tree to be saved, but recognized as an invasive species at the time of approval of the administrative amendment.
  - (o) Addition of 1 freestanding storage building greater than 240 square feet of floor area, but not to exceed 5,000 square feet of floor area, 5 percent of the lot area, and 14 feet in height.
  - (p) Addition of carports over existing legal parking spaces.
  - (q) Replacement or enhancement of a wireless communications tower to accommodate co-location, provided that the tower is not relocated more than 15 feet from the base of the original tower, nor is increased in height more than 20 feet above the original tower height and meets all other applicable regulations.
  - (r) Canopy structures over vehicular use areas.
- (6) *Standards for site plan approval.* A site plan shall be approved by the appropriate body after it determines that:
- (a) The contemplated development would comply with all applicable state, local and federal law, ordinances, standards and regulations; and
  - (b) The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and
  - (c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.
- (7) *Effect of approval of site plan.* For 3 years from the date of approval of a site plan, permits may be issued and the land developed consistent with that plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances are made applicable to previously approved developments. After 3 years from approval, no permits shall be issued unless the site plan is reconsidered in the manner provided for new site plans.

#### 5:123. Planned unit development (PUD) site plan.



- (1) *Necessity.* An approved PUD site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any natural feature for all planned unit developments.
- (2) *Applicability.* The requirements of this section are specifically made applicable to:
  - (a) PUD zoning districts approved on or after February 3, 1999;
  - (b) PUD zoning districts, previously known as preliminary phase PUD zoning districts, approved before February 3, 1999, for which PUD site plan approval, previously known as final phase approval, has not been granted or for which an amendment to an approved final phase PUD site plan is sought;
  - (c) PUD site plans, previously known as final phase PUD site plans, for which approval was granted on or before February 3, 1996, and further permits are sought.
- (3) *Procedure for PUD Site Plan Review.*
  - (a) The petitioner for PUD site plan approval shall file with the planning and development services manager or designee all drawings and other materials required for site plans in this Chapter and the Land Development Regulations; all drawings and other materials required in Chapter 55 for PUD zoning district approval; and the additional information listed below. A PUD site plan application shall not be considered filed until all drawings and other required materials have been submitted and may be rejected if the materials submitted are inadequate to make the foregoing determinations.
    - (i) Before submitting a site plan application for formal review, the petitioner shall comply with section 5:135 (citizen participation for petitions that require public hearings).
    - (ii) Pre-Petition Conference. Before submitting a petition, the petitioner shall contact the planning and development services manager or designee to schedule a pre-petition conference. At the conference the petitioner shall present the proposed conceptual site plan and development program. The staff may provide the applicant with their comments regarding compliance with ordinance of the proposed land uses, the proposal's conformance with adopted Master Plan and policies, and whether the project will require citizen participation, consistent with section 5:135.
  - (iib) If requested by the Commission or City Council, additional graphics, models, 3-dimensional or electronic, or written materials shall be submitted to assist the City in visualizing and understanding the proposal. Additional detailed information, including but not limited to plans, elevations, building and site sections, or existing and proposed building materials, if submitted, shall become a part of the PUD site plan.

- (bc) The planning and development services manager or designee will distribute these materials to the appropriate City departments and other reviewing agencies for review and comment regarding compliance with the PUD zoning district supplemental regulations and conceptual PUD plan, and compliance with all applicable local, state, or federal laws, ordinances, standards and regulations and to determine the need for a development agreement as provided in this chapter. The planning and development services manager or designee will notify the petitioner of any questions raised by the City departments and other reviewing agencies and negotiate a development agreement with the petitioner if it is determined that such an agreement is needed. The planning and development services manager or designee shall submit a report and recommendation to the Commission based on this review.
  - (ed) The Commission, after holding a public hearing on the PUD site plan with notification as required by this Chapter, shall transmit its recommendation based on the standards below, together with any recommended conditions of approval and all related reports and minutes to City Council.
- (4) *Standards for PUD Site Plan Review.* City Council, after holding a public hearing on the PUD site plan with notification as required by this Chapter, and after receiving all related reports and minutes and a recommendation from the Commission, shall approve, approve with conditions, or deny a PUD site plan. A PUD site plan shall be approved by City Council only after it determines that:
- (a) The development would comply with the PUD zoning established pursuant to the requirements of Chapter 55, and with all applicable local, state, or federal laws, ordinances, standards and regulations; and
  - (b) The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and
  - (c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.
- (5) *Effect of PUD Site Plan Approval.* For 3 years from the date of approval of a PUD site plan, permits may be issued and the land developed consistent with the PUD site plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances have been made applicable to previously approved developments. After 3 years from PUD site plan approval, no permits shall be issued unless the PUD site plan is reconsidered in the manner provided for new PUD site plans and is determined to meet the standards of the PUD zoning district or has been extended as provided under Administrative Amendments to Approved PUD Site Plans.
- (6) *Administrative Amendments to Approved PUD Site Plans.* A minor change to an approved PUD site plan may be approved as provided in this Chapter for Administrative Amendments to Approved Site Plans, except that the proposed changes shall not alter

the fundamental design, conceptual integrity, natural features shown to be preserved, any specific conditions of the PUD development program, the conceptual PUD plan or the supplemental regulations. The following restrictions shall also apply:

- (a) Adjustment in approved phase lines shall not result in a change greater than 10 percent of the total gross land area in any phase, or 10 percent of the number of approved lots, or 10 percent of the approved maximum building square footage.
- (b) Any decrease in building size or changes in bedroom counts per dwelling unit shall not reduce the size or number of affordable housing units approved as part of the PUD site plan.

Section 6. That Sections 5:135, 5:136, 5:137 and 5:138 of Chapter 57 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:135. Citizen participation for petitions that require public hearings

- (1) Intent. The intent of this section is: 1) to ensure that petitioners seeking approval of planned projects site plans, planned unit development site plans, major site plans and other petitions that require public hearings pursue early and effective citizen participation in conjunction with their proposed developments, giving citizens an early opportunity to learn about, understand and comment upon proposals, and providing an opportunity for citizens to be involved in the development of their neighborhood and community; 2) to provide clear expectations and formal guidance for petitioners to gather citizen comments regarding their proposals so that they may respond and attempt to mitigate any real or perceived impacts their proposed development may have on the community; and 3) to facilitate ongoing communications between petitioners and interested or potentially affected citizens throughout the application review process.
- (2) Citizen Participation Requirements for Planned Project Site Plans, Planned Unit Development Site Plans and Major Site Plans. For purposes of this section a major site plan is defined as having at least one of the following characteristics:
  - (a) A proposed project containing over 80 residential units;
  - (b) A proposed project over 65 feet in height;
  - (c) A proposed project containing over 50,000 square feet of nonresidential useable floor area;
  - (d) A proposed project that may require additional citizen participation depending on the scope, nature or any unique or unusual characteristics as determined by the planning and development services unit manager.
- (3) Before the planning and development services unit may accept a petition for a new or amended planned project site plan, a new or amended planned unit development site

plan, or a major site plan, the following requirements shall be completed by the petitioner:

- (a) Preliminary Meeting with the Planning and Development Services Unit. The petitioner shall meet with the planning and development services unit to review the requirements set forth in this section.
- (b) Required Notice. The petitioner shall mail written information about citizen participation to all property owners, addresses and registered neighborhood groups within 1,000 feet of the proposed petition site, as well as the planning and development services unit, at least 10 business days prior to the date of the citizen participation meeting. Addresses shall be provided by the planning and development services unit. An electronic copy of the information must also be provided to the planning and development services unit at least 10 business days prior to the date of the citizen participation meeting to be forwarded to other interested citizens registered with the planning and development services unit. At a minimum, the written information shall include all of the following in a format provided by the planning and development services unit:
  - 1. A statement explaining the citizen participation requirements, including explanation of why and to whom such information is being sent, the opportunities for participation, and how the information gathered through the citizen participation process will be used by the petitioner.
  - 2. A statement that a petition is being prepared for submittal along with a written description of the proposal and a conceptual sketch of the development and site plan.
  - 3. The petitioner's schedule for citizen participation meetings, the anticipated petition submittal date and the anticipated city review and approval schedule.
  - 4. The date, time, and location of the meetings.
  - 5. How those sent notices will be provided an opportunity to discuss the application with the petitioner and express any concerns, issues, or problems they may have with the proposed project.
- (c) Citizen Participation Meeting. The petitioner shall hold at least one citizen participation meeting at least 10 business days prior to the established petition submittal deadline. The meeting shall be organized and held in accordance with the citizen participation meeting guidelines provided by the planning and development services unit.
- (d) Final Citizen Participation Report. The petitioner shall provide a written report in a format provided by the planning and development services unit on the results of its citizen participation activities along with the required petition. At a minimum, the report shall include the all of the following information in a format provided by the planning and development services unit:

1. Detailed description of the petitioner's efforts used to involve citizens, including: dates and locations of all meetings; and copies of all written materials prepared and provided to the public, including letters, meeting notices, emails, newsletters and other publications;
  2. A written statement of the number of citizens sent notices by mail, email or other, the number of citizens attending meetings, and copies of attendance or sign-in sheets of meetings.
  3. A written summary of comments, concerns, issues, and problems expressed by citizen participants; a statement of how the petitioner has addressed or intends to address these concerns, issues or problems, or why a concern, issue or problem cannot or will not be addressed.
- (4) Citizen Participation Requirements for Other Projects. For any other type of petition that requires a public hearing under this chapter, but is not specified in section 5:135(2), the following requirements shall be completed by the petitioner:
- (a) Required Notice. The petitioner shall mail written information about citizen participation to all property owners, residents and registered neighborhood groups within 500 feet of the proposed petition site, as well as the planning and development services unit, within 5 business days of acceptance of the petition by the planning and development services unit. Addresses shall be provided by the planning and development services unit. An electronic copy of the information must also be provided to the planning and development services unit within 5 business days of acceptance of the petition to be forwarded to other interested citizens registered with the planning and development services unit. At a minimum, the written information shall include all of the following in a format provided by the planning and development services unit:
    1. A notice that a petition has been submitted with a written description of the proposal and a conceptual sketch of the development and site plan.
    2. How those sent notices will be provided an opportunity to discuss the application with the petitioner and express any concerns, issues, or problems they may have with the proposed project.
  - (b) Citizen Participation Report. The petitioner shall provide the planning and development services unit with documentation of any meetings or discussions that are held with citizens at least 10 business days prior to the planning commission public hearing on the petition.

5:1356. Public information and hearings.

- (1) Prior to Planning Commission recommendation and City Council final action of any area plan, site plan, PUD site plan, land division, or tentative or final preliminary plat, each body shall hold a public hearing. Prior to its final action on a site plan for Planning Commission approval, the Planning Commission shall hold a public hearing. Provided, however, whenever a wetland use

permit is required by Chapter 60 in addition to the approval required under this Chapter, the public hearing or hearings required in this subsection shall be held concurrently with the public hearing or hearings required by Chapter 60.

- (2) Area plans, site plans, site plans for Planning Commission approval, PUD site plans, preliminary plats and land divisions under review shall be displayed in a location in City Hall open to the public 24 hours per day, 7 days each week, for at least 1 week prior to the City Council and Planning Commission public hearings.
- (3) Notice of all public hearings shall be published in a local daily newspaper of general circulation at least 1 week prior to the public hearing.
- (4) Prior to the Planning Commission's public hearing, the planning and development services unit shall mail a notice letter to the person being assessed for the property which is subject of any area plan, site plan, land division, or preliminary plat; all persons being assessed for property within 300 feet; neighborhood associations duly registered with the planning and development services unit which represent owners of property within 300 feet; and insofar as is possible, all occupants within 300 feet. The notice shall describe the requested approval; identify the property; state the date, time, and place of the Planning Commission's public hearing; and be mailed not earlier than 15 days before or less than 1 week before the Planning Commission's public hearing. A second public hearing will be held in the same manner if either:
  - (a) Final action by the Planning Commission is delayed more than six months after the initial public hearing; or
  - (b) In the judgment of planning and development services unit staff, the project plan has been substantially revised.
- (5) A notice shall be posted by the planning and development services unit on the affected property prior to the Planning Commission's public hearing stating that Planning Commission action is scheduled for any area plan, site plan, site plan for Planning Commission approval, PUD site plan, land division, or preliminary plat. This notice shall include information provided in the mailed notice. It shall be placed in a conspicuous location within 10 feet of the front lot line of the affected property at least 1 week prior to the date the request is being acted upon by the Planning Commission.

#### 5:1367. Conflict with Code.

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

#### 5:1378. Regulations.

The planning commission shall adopt land development regulations regarding the form, number of plans and information required with plats and plans submitted pursuant to this chapter. The information required shall include that which is necessary to determine whether the plans and plats comply with all applicable laws to permit the planning commission to make recommendations for alterations, to make plans and plats compatible with adjacent uses and to permit the commission to determine the effect of proposed improvements on natural land features and historic buildings. Prior to taking effect, such regulations must be approved by the city council.

5:1389. Penalties.

Violation by any person of any provision of this chapter constitutes a civil infraction punishable by a fine of not more than \$500.00 per violation plus all cost incurred by the city in connection with the infraction that are taxable pursuant to state law, and equitable relief necessary to enforce the ordinance as provided by law, including, but not limited to, mitigation. Each day upon which such violation shall occur shall constitute a separate offense. In addition to these penalties, the city attorney may commence suit in a court of appropriate jurisdiction to abate any nuisance resulting from a violation of the provisions of this chapter.

Section 7. ~~That this ordinance shall take effect on the tenth day following legal publication.~~ That this ordinance shall take effect on January 1, 2009, following the preparation of citizen participation meeting guidelines, citizen participation report format and procedure materials, and the establishment of an interested citizens email distribution list. This ordinance shall be re-assessed and revised as required on January 1, 2010, one year from the effective date.