



## Legislation Text

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**File #:** 18-0446, **Version:** 1

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An Ordinance to Repeal Sections 4:16 through 4:20 and Section 4:30 of Chapter 47 (Streets and Curb Cuts) of Title IV; and Chapter 55 (Zoning), Chapter 56 (Prohibited Land Uses), Chapter 57 (Subdivision and Land Use Control), Chapter 59 (Off-Street Parking), Chapter 60 (Wetlands), Chapter 61 (Signs and Outdoor Advertising), Chapter 62 (Landscaping and Screening), Chapter 63 (Soil Erosion and Sedimentation Control), of Title V; and Chapter 104 (Fences) of Title VIII of the Code of the City of Ann Arbor and to Amend the Code of the City of Ann Arbor with a New Chapter 55 (Unified Development Code) of Title V of Said Code (CPC Recommendation: Approval - 7 Yeas and 0 Nays) (Ordinance No. ORD-18-08)

Attached for your review and approval is an ordinance to repeal certain sections and chapters of the Ann Arbor City Code that provide development regulations and to replace them with a Unified Development Code.

Background - The City's land use and development ordinances and regulations are scattered among ten different chapters of the City Code. In 2009, City Council directed the Office of the City Attorney and the Planning Services Unit to review and reorganize the City's development-related ordinances in order to present the information in a more coherent, concise and user-friendly manner. Problems with the City's development ordinances include that the ordinances are difficult to navigate (especially for the occasional user), they lack clarity, they need minor cleanup, and in some areas they contain dated and incomplete material, and have minor inconsistencies with state law. Making these technical revisions to the Code would improve the clarity, organization and user-friendliness of the Code, setting the stage for future substantive amendments.

This effort was branded the Zoning Ordinance Reorganization Project ([ZORO](https://www.a2gov.org/departments/planning/Pages/Zoning-Ordinance-Reorganization-(ZORO)-Project.aspx) [<https://www.a2gov.org/departments/planning/Pages/Zoning-Ordinance-Reorganization-\(ZORO\)-Project.aspx>](https://www.a2gov.org/departments/planning/Pages/Zoning-Ordinance-Reorganization-(ZORO)-Project.aspx)). A consultant, Donald Elliott of Clarion Associates, LLC, was selected to perform the work with leadership and support provided by project co-managers Kevin McDonald, Senior Assistant City Attorney, and Alexis DiLeo, City Planner. We also consulted with outside counsel, Carol Rosati, regarding the Project. A Technical Working Group, consisting of the project co-managers, the Planning Commission Ordinance Revisions Committee, a City Councilmember and a member of the Zoning Board of Appeals, was assembled to provide feedback at appropriate milestones in the project schedule.

Work History - Clarion provided a [Diagnosis and Annotated Outline](https://www.a2gov.org/departments/planning/Documents/ZORO/Diagnosis%20and%20Annotated%20Outline%20public.pdf) [<https://www.a2gov.org/departments/planning/Documents/ZORO/Diagnosis%20and%20Annotated%20Outline%20public.pdf>](https://www.a2gov.org/departments/planning/Documents/ZORO/Diagnosis%20and%20Annotated%20Outline%20public.pdf) as the first, interim product in 2010. The Diagnosis and Outline details the recommendation for a Unified Development Code (UDC) combining the City's development chapters, plus the Land Development Regulations and Attachments, into a single ordinance. The project goals were established to provide a, comprehensive, clear, user-friendly, enforceable and legally defensible, and adaptable document that is usable by seasoned professionals and the general public alike. More than a dozen partial and preliminary drafts were provided to the co-managers for review and feedback, and many additional internal review drafts were produced because although the work

was anticipated to be complex, it proved to be even more challenging than expected. Review drafts, and adoption drafts were published on the project website - [www.a2gov.org/zoro](http://www.a2gov.org/zoro) - in 2016, 2017, and 2018.

UDC Format - As proposed in the outline, the UDC format has eight articles, intentionally organized from the perspective of those affected by the regulations: land owners, residents, and developers in the City. (This is a fundamental shift from the current perspective of the codes, written by separate code administrators to regulate and manage their individual subject matter based responsibilities.)

The order of articles follows the most modern organization for development codes, beginning with general provisions, then descriptions of the zoning districts, use regulations, development standards, and procedures. Sections for nonconformities, enforcement and definitions are last as typical for a reference document.

Article III (Use Regulations), Article IV (Development Standards), and Article V (Administrative Bodies and Procedures) will be the articles most referenced on a daily basis. These articles answer “what can I do with my property,” “what does it need to look like,” and “how can I do it,” respectively.

Benefits - Repeating and expanding the Diagnosis and Outline provided by Clarion, the major benefits that will be achieved by adoption of the UDC are:

- More user-friendly as similar provisions are grouped together and conflicting provisions are clarified
- More straightforward to administer, ensuring public resources for development review are used efficiently
- More legally defensible
- Better platform for future improvements, easier for staff to draft amendments without unintended consequences and easier to stakeholders to evaluate any implications of proposed revisions
- Table of uses, removes dated “flip-back” pyramid format for use regulations and allows a comprehensive review of all the permitted uses in all zoning districts
- Navigation bar at top of each page to quickly identify article, section, and subsection
- Index of all articles, sections and subsections
- Graphics, tables, charts
- Capitalized defined terms, setting stage for future editions to be fully digitized and hyperlinked.

Substantive Changes - The ZORO project was first and foremost a reorganization of the existing code language with technical revisions. However, a few substantive changes were necessary to correct errors, resolve overlaps and address gaps. The most significant substantive changes include:

- Definitions added for every permitted use.
- New definition of floor, floor area, and floor area ratio (following the City’s current application of the ordinance).
- Natural features guidelines codified.
- Regulations regarding nonconformities expanded to be more specific to the type of situation -

nonconforming uses, nonconforming structures and nonconforming lots.

- Site plan submittal requirements rewritten to match current practice.
- Enforcement provisions modernized to match current practice and state laws.

Although the process of reviewing the current codes revealed numerous instances of language that “could be” or “ought to be” amended, only those substantive changes strictly consistent with the project goals for consistency, clarity, and enforceability are included in the proposed UDC.

Engagement and Review - The project kick-off phase included:

- 4 focus group meetings
- Public meeting #1
- Planning Commission working session
- Technical Working Group meetings
- Project website
- Project email address

The draft review phase included:

- Public meeting #2
- Series of office hours
- Planning Commission working sessions
- City Council working session
- Ordinance Revisions Committee meetings

The adoption phase included:

- 5 Ordinance Revisions Committee meetings
- 2 Planning Commission working sessions
- Public meeting #3
- 3 office hours series, before Planning Commission public hearings and before scheduled first reading by City Council
- Private appointments
- 3 public hearings by Planning Commission - December 19, 2017, January 18, 2018 and February 6, 2018
- Review by the Michigan Department of Environmental Quality and Washtenaw County Water Resources Commissioner (as required)
- Hours of individual and team review by city staff

Review Details - Due to the scope of a reorganization of this magnitude using “track changes” was not feasible. Instead, the UDC relies on more than 650 footnotes to flag where substantive changes have been made, to explain why text may not exactly match the current chapters, and to note the origin of text.

Some tips to consider:

- Check out the project website. - [www.a2gov.org/zoro](http://www.a2gov.org/zoro) <<http://www.a2gov.org/zoro>> or [www.a2gov.org/udc](http://www.a2gov.org/udc) <<http://www.a2gov.org/udc>>. It has an introduction, project overview, and library with the [ZORO Project Plan](https://www.a2gov.org/departments/planning/Documents/ZORO/ZORO%20Project%20Diagnosis%20and%20Annotated%20Outline) <<https://www.a2gov.org/departments/planning/Documents/ZORO/ZORO%20Project%20Diagnosis%20and%20Annotated%20Outline>>, rough draft, review draft, and the adoption draft.
- Ask staff. Office hour and private appointment attendees report that meeting with or asking staff is a very effective and efficient way to learn about the ZORO process or the UDC document.
- Become a user. Use the document to complete sample exercises offered in the [December 19, 2017 Planning Staff Report](http://a2gov.legistar.com/View.ashx?M=F&ID=5699685&GUID=02B83B74-242A-45BA-8ED6-1062E451F13F) <<http://a2gov.legistar.com/View.ashx?M=F&ID=5699685&GUID=02B83B74-242A-45BA-8ED6-1062E451F13F>>. This approach may be most useful for those curious about exploring the new format, improved clarity and ease of use.
- Read the footnotes. This approach may be most useful to those focused on comparing content.

Changes Since Planning Commission Recommendation - Staff have been continually editing the document as necessary. Since the Planning Commission recommended approval on February 6, 2018 (of the February 2, 2018 Adoption Draft), the following edits have been made to the UDC:

- Corrections to natural features, soil erosion regulations, wetland use permit applicability (changes tracked)
- Corrections to internal links and cross references within document (not tracked)
- Clarification of required site plan information (changes tracked)
- Correction to permitted use of a nonconforming lot in a multiple-family residential district (changes tracked)
- Inclusion of Ordinance 18-01 Amendments to the Zoning Ordinance related to Solar Energy Systems (changes tracked)
- Inclusion of Ordinance 17-21 Amendments to the Zoning Ordinance related to Medical Marijuana Facilities (changes tracked)

Note that track changes are used only to highlight editing since the Planning Commission's February 6, 2018 recommendation. Neither track changes nor the footnotes will be included following adoption. However, all footnotes will be archived for reference purposes.

Recommendation - Staff recommends that the proposed ordinance to repeal the identified sections and chapters of the Code and to replace them with a new Chapter 55 be approved because the UDC is substantively the same as the current codes, except as specifically noted, but is significantly more coherent, consistent, concise, and user-friendly. Adoption of the UDC will achieve the directed goals of the ZORO project to have a comprehensive, clear, enforceable and legally defensible, and adaptable unified development code.

The City Planning Commission recommended approval at its meeting of February 6, 2018.

Attachments: Diagnosis and Annotated Outline, Attachment A Unified Development Code, February

6, 2018 Planning Staff Report

Prepared by: Alexis DiLeo, City Planner

Reviewed by: Brett Lenart, Planning Manager and Derek Delacourt, Community Services Area Administrator

ORDINANCE NO. ORD-18-08

First Reading: April 16, 2018

Approved: July 16, 2018

Public Hearing: June 4, 2018

Published: July 19, 2018

Effective: July 29, 2018

STREETS AND CURB CUTS, ZONING, PROHIBITED LAND USES  
SUBDIVISION AND LAND USE CONTROL, OFF-STREET PARKING,  
WETLANDS, SIGNS AND OUTDOOR ADVERTISING, LANDSCAPING  
AND SCREENING, SOIL EROSION AND SEDIMENTATION CONTROL,  
FENCES, AND UNIFIED DEVELOPMENT CODE

AN ORDINANCE TO REPEAL SECTIONS 4:16 THROUGH 4:20 AND SECTION 4:30 OF CHAPTER 47 (STREETS AND CURB CUTS) OF TITLE IV; AND CHAPTER 55 (ZONING), CHAPTER 56 (PROHIBITED LAND USES), CHAPTER 57 (SUBDIVISION AND LAND USE CONTROL), CHAPTER 59 (OFF-STREET PARKING), CHAPTER 60 (WETLANDS), CHAPTER 61 (SIGNS AND OUTDOOR ADVERTISING), CHAPTER 62 (LANDSCAPING AND SCREENING), CHAPTER 63 (SOIL EROSION AND SEDIMENTATION CONTROL), OF TITLE V; AND CHAPTER 104 (FENCES) OF TITLE VIII OF THE CODE OF THE CITY OF ANN ARBOR AND TO AMEND THE CODE OF THE CITY OF ANN ARBOR WITH A NEW CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF SAID CODE

The City of Ann Arbor ordains:

Section 1. That Sections 4:16 of Chapter 47 of Title IV of the Code of the City of Ann Arbor is amended as follows:

4:16. Building projections. Reserved.

~~Awnings, canopies, marquees, balconies, cornices and other above-grade projections from buildings permitted by Chapter 98 of this Code do not require additional permission pursuant to this chapter.~~

Section 2. That Section 4:17 of Chapter 47 of Title IV of the Code of the City of Ann Arbor is amended as follows:

~~4:17. –Compliance with Chapter 57. Reserved.~~

~~No site plan shall be approved under Chapter 57 of this Code unless said site plan shows curb cuts or openings consistent with the requirements of this chapter.~~

Section 3. That Section 4:18 of Chapter 47 of Title IV of the Code of the City of Ann Arbor is amended as follows:

~~4:18. –Compliance with chapter required for occupancy. Reserved.~~

~~No certificate of occupancy for any building will be issued under Chapter 98 of this Code unless~~

the applicant for said certification shall have complied substantially with the requirements of this chapter and related land development regulations and have substantially completed the installation of curb cuts contained in any plat or site plan approved for said applicant.

Section 4. That Section 4:19 of Chapter 47 of Title IV of the Code of the City of Ann Arbor is amended as follows:

4:19. ~~–Non-conforming curb cuts.~~ Reserved.

Curb cuts lawfully made prior to the effective date of this chapter which do not meet the standards of this chapter shall be considered non-conforming but may be maintained except as provided in section 4:20(6), (8) and (9) of this chapter.

Section 5. That Section 4:20 of Chapter 47 of Title IV of the Code of the City of Ann Arbor is amended as follows:

4:20. ~~–Curb cuts and driveway approaches.~~ Reserved.

No curb cut or driveway approach shall be made to a public dedicated street or right-of-way without first obtaining a permit from the City Administrator or his designee. Issuance of such permits shall be made only in accordance with the following regulations:

- (1) *Definitions.* As used in this section, the following definitions apply:
  - (a) The term "*approach*" shall mean an area improved for vehicular traffic on a public street right-of-way which connects the traveled portion of the street with a driveway.
  - (b) The term "*curb cut*" shall mean that section of curb removed to permit ingress and egress from the pavement to the adjacent property and shall be measured between the points of tangency of the opening radii with the normal street curbing.
  - (c) The term "*opening*" shall mean the point of connection of the driveway and approach at the street right-of-way line. Its width and location shall be determined by extending the driveway line to the street right-of-way line.
  - (d) The term "*site*" shall mean all contiguous land under the same ownership or 1 whole lot in the case of land for which a recorded plat exists.
  - (e) "*Street frontage*" shall mean the length of the property abutting 1 or more streets.
- (2) *Number of openings.* The number of openings listed in the chart below shall be maximum for any site, lot or parcel.

Total Street Frontage	Up to 100'	101' to 200'	201' or Over
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Number of Openings	(1)	(2)	(2) for the first 200' pl street frontage therea
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~~(3) Location of openings.~~

- ~~(a) No opening shall be closer than 15 feet to the right-of-way line of an intersecting street or extension of the street right-of-way of a street ending at the intersection, provided that no part of any approach shall encroach on any intersection turning area, except as otherwise required by this section.~~
- ~~(b) No opening shall be closer than 10 feet from the right-of-way line of an alley, except in the case of a joint approach and provided the total width of the combined opening does not exceed that permitted in subsection (4) of this section.~~
- ~~(c) No opening shall be closer than 4½ feet to the adjacent property line. No approach shall be so constructed that any part of same extends in front of property belonging to another person unless both property owners sign a joint application for a permit.~~
- ~~(d) Any 2 openings shall be at least 9 feet apart; provided that this requirement shall not apply to openings for existing driveways on residential property.~~
- ~~(e) All openings and approaches shall be so located as to provide adequate vertical and horizontal sight distances for safe access to the street in accordance with the design standards for sight distance, copies of which are on file with the department of streets, traffic and parking.~~

~~(4) Design criteria.~~

- ~~(a) The angle of the driveway approach to the street shall be 90 degrees, except as otherwise provided for herein.~~
- ~~(b) Driveways for single- and 2-family uses shall be constructed as follows: (i) Minimum permitted width of openings: 10 feet.  
(ii) Maximum permitted width of openings: 24 feet. (iii) Maximum permitted curb cut width: 44 feet. (iv) Minimum turning radius: 5 feet.~~
- ~~(c) Driveways for all other uses shall be constructed as follows: (i) Minimum permitted width of openings: 24 feet.  
(ii) Maximum permitted width of openings: 30 feet. (iii) Maximum permitted curb cut width: 60 feet.  
(iv) Minimum permitted width of 1-way drives: 15 feet. (v) Maximum permitted width of 1-way drives: 20 feet. (vi) Minimum turning radius at pavement edge: 5 feet.  
(vii) Maximum turning radius at pavement edge: 15 feet.~~

- ~~(d) Upon a finding that traffic conditions would otherwise cause unnecessary congestion or practical difficulties, the City Administrator or his designee may permit the following design features:~~

- ~~(i) One of the driveway openings on each abutting street may be channelized with a separating island a minimum of 10 feet in width to form a separate opening for entrance and exit lanes; provided that the total of both lanes shall not exceed the maximum permitted width.~~

~~(5) Standard for parking lots. The following requirements shall apply to parking lots having more than 4 car spaces:~~

- ~~(a) The minimum distance to intersections as measured from the extension of the street right-of-way line to the nearest edge of the driveway opening shall be 50 feet.~~
- ~~(b) Where 2 or more openings are permitted, signs shall be erected, making 1 or more openings 1-way.~~
- ~~(c) No opening shall be so located as to conflict with an existing opening on the opposite side of the street.~~

~~(6) Traffic hazards. Any openings which are found to be a traffic hazard may be closed, modified, or relocated by resolution of City Council.~~

~~(7) Traffic control order. The direction and turning movement of traffic entering and exiting through openings shall be subject to traffic control orders issued pursuant to Chapter 126 of Title X of this~~

Code.

- (8) *Useless curb cuts.* If at any time a curb cut ceases to be functional, the curb shall be replaced and the approach removed by the adjoining property owner. No building permit shall be issued pursuant to Chapter 98 of this Code where, as a result of the construction, a curb cut would become nonfunctional, unless said permit provides for the replacement of the curb and removal of the approach. If a useless curb is not replaced by curbing and the approach removed, said work may be done by the city. The cost of said work shall be assessed in accordance with Chapter 13 of this Code against the site formerly served by the curb cut.
- (9) *Variance and exceptions.* The Zoning Board of Appeals shall have the authority to interpret this chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this chapter providing such variance or exception is in harmony with the general purpose and intent of this chapter. Appeals under this chapter shall be made in accordance with procedures outlined under sections 5:99 and 5:102 of Chapter 55.

Section 6. That Sections 4:30 of Chapter 47 of Title IV of the Code of the City of Ann Arbor is amended as follows:

4:30. - Private street standards. Reserved.

- (1) Private streets may be provided to access lots, as defined in [section 5:1 <https://library.municode.com/mi/ann\\_arbor/codes/code\\_of\\_ordinances?nodeId=TITVZOPL\\_CH55ZO\\_ARTINGE\\_5\\_1DE>](https://library.municode.com/mi/ann_arbor/codes/code_of_ordinances?nodeId=TITVZOPL_CH55ZO_ARTINGE_5_1DE), subject to the following standards and requirements: A private street shall be located within a minimum 30-foot wide recorded access and utility easement. Additional width or additional easements may be necessary to satisfy all of the standards and requirements of this section, such as the requirement to provide sidewalks.
- (2) The street shall be designed and constructed in accordance with the City of Ann Arbor Public Services Standard Specifications, as amended, except that curb and gutter shall not be required when the street serves 8 lots or less.
- (3) Traveled lanes shall be a minimum of 11 feet in width.
- (4) The width of a 2-way private street shall be a minimum of 25 feet from the face or curb to the face of curb or 14 feet for a 1-way private street.
- (5) Where a private street serves more than 8 lots, a minimum of 1 parking space per dwelling unit shall be provided along the private street. These parking spaces shall be located within the street easement and meet either of the following standards:
  - (a) Two traveled lanes and parking on 1 side of the street shall be provided and shall have a minimum pavement width of 30 feet from face of curb to face of curb, or 20 feet for a 1-way private street; or
  - (b) May be provided in parking bays that meet parking standards.
- (6) Minimum radius at street intersections shall be 20 feet, as measured along the back of curb.
- (7) A turnaround shall be provided for culs-de-sac. Minimum radius for a circular turnaround at pavement edge shall be 30 feet where no on-street parking is provided, or 44 feet where parking is provided.
- (8) Private streets and parking areas within the street easement shall meet city illumination standards for new parking areas and new public streets.
- (9) All private streets shall be signed to city standards, with names approved by the Community Services Area.
- (10) All private streets shall meet city standards for traffic control devices.
- (11) A sidewalk system shall be provided which connects to the public walkway system when the private street serves more than 8 lots. All private sidewalks shall be at least 4 feet in width.
- (12) Street trees shall be provided as required by Chapter 62 (Landscape and Screening).



Section 7. That Chapter 55 of Title V of the Code of the City of Ann Arbor is repealed.

Section 8. That Chapter 56 of Title V of the Code of the City of Ann Arbor is repealed.

Section 9. That Chapter 57 of Title V of the Code of the City of Ann Arbor is repealed.

Section 10. That Chapter 59 of Title V of the Code of the City of Ann Arbor is repealed.

Section 11. That Chapter 60 of Title V of the Code of the City of Ann Arbor is repealed.

Section 12. That Chapter 61 of Title V of the Code of the City of Ann Arbor is repealed.

Section 13. That Chapter 62 of Title V of the Code of the City of Ann Arbor is repealed.

Section 14. That Chapter 63 of Title V of the Code of the City of Ann Arbor is repealed.

Section 15. That Chapter 104 of Title VIII of the Code of the City of Ann Arbor is repealed.

Section 16. That a new Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is adopted (Attachment A).

Section 17. That this ordinance shall take effect and be in force on the 10th day following legal publication.

### **CERTIFICATION**

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of July 16, 2018.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication in the Washtenaw Legal News on July 19, 2018.

Jacqueline Beaudry, Ann Arbor City Clerk