

Ann Arbor, Michigan  
Zoning Ordinance Re-Organization (ZORO)  
Draft UDC (Chapter 55)



*prepared for the*

Office of the Ann Arbor City Attorney,  
Planning and Development Services Unit, &  
ZORO Technical Advisory Committee

by  
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August 1 2012

Chapter 55 ..... 1

Ann Arbor Unified Development Code..... 1

Article I – General Provisions ..... 1

- 5.1. Authority..... 1
- 5.2. Title..... 1
- 5.3. Effective Date..... 1
- 5.4. Purpose..... 1
- 5.5. Applicability ..... 2
  - 5.5.1. Required Conformity to District Regulations..... 2
  - 5.5.2. Exceptions ..... 2
  - 5.5.3. Liability ..... 3
  - 5.5.4. Application to Approved Site and Area Plans ..... 3
- 5.6. Applicability of Other Regulations ..... 3
- 5.7. Relationship to Private Agreements ..... 4
- 5.8. Severability..... 4
- 5.9. Repeal of Previous Regulations..... 5
  - 5.9.1. Repeal ..... 5
  - 5.9.2. Violations of Previous Regulations ..... 5

Article II – Zoning Districts ..... 6

- 5.10. General ..... 6
  - 5.10.1. Classification of Districts ..... 6
  - 5.10.2. Zoning District Boundaries Shown on the Zoning Map..... 6
  - 5.10.3. Interpretation of the Zoning Map..... 6
  - 5.10.4. Relationship of Base and Overlay Zoning Districts ..... 7
- 5.11. Residential Zone Districts ..... 7
  - 5.11.1. AG Agricultural-Open Space District ..... 7
  - 5.11.2. R1A, R1B, R1C, R1D and R1E Single-family Dwelling District..... 7
  - 5.11.3. R2A Two-family Dwelling District ..... 8
  - 5.11.4. R2B Two-family Dwelling and Student Housing District ..... 8
  - 5.11.5. R3 Townhouse Dwelling District..... 8
  - 5.11.6. R4A Multiple-family Dwelling District ..... 8

5.11.7.	R4B, R4C, R4D and R4E Multiple-family Dwelling Districts .....	9
5.11.8.	R6 Mobile Home Park District .....	9
5.12.	Mixed Use Zoning Districts .....	10
5.12.1.	O Office District.....	10
5.12.2.	C1 Local Business District.....	10
5.12.3.	C1A Campus Business District.....	10
5.12.4.	C1B Community Convenience Center .....	10
5.12.5.	C1A/R Campus Business Residential District.....	11
5.12.6.	D1 and D2 Downtown Districts .....	11
5.12.7.	C2B Business Service District.....	11
5.12.8.	C3 Fringe Commercial District.....	12
5.13.	Nonresidential and Special Purpose Zone Districts .....	12
5.13.1.	R5 Hotel District .....	12
5.13.2.	P Parking District .....	12
5.13.3.	PL Public Land District.....	12
5.13.4.	RE Research District .....	13
5.13.5.	ORL Office/Research/Limited Industrial District.....	13
5.13.6.	M1 Limited Industrial District.....	14
5.13.7.	M1A Limited Light Industrial District.....	14
5.13.8.	M2 Heavy Industrial District .....	15
5.13.9.	PUD Planned Unit Development District.....	15
5.14.	Overlay Zone Districts .....	16
5.14.1.	Downtown Character Overlay Zoning Districts.....	16
<b>Article III – Use Regulations .....</b>		<b>21</b>
5.15.	Permitted Use Table .....	21
5.15.1.	Permitted Uses .....	21
5.15.2.	Special Exception Uses.....	21
5.15.3.	Accessory Use.....	21
5.15.4.	Prohibited Uses .....	21
5.16.	Use Specific Standards .....	34
5.16.1.	Residential Uses .....	34
5.16.2.	Public/Institutional Uses.....	37
5.16.3.	Commercial Uses .....	39

5.16.4.	Office/Research Uses.....	46
5.16.5.	Industrial.....	48
5.16.6.	Accessory Uses and Structures.....	52
5.16.7.	Temporary Uses.....	58
<b>Article IV: Development Standards.....</b>		<b>59</b>
5.17.	Area, Height and Placement Regulations .....	59
5.17.1.	Intent .....	59
5.17.2.	General Requirements.....	59
5.17.3.	Residential Zone Districts .....	59
5.17.4.	Mixed Use Zone Districts .....	63
5.17.5.	Nonresidential and Special Purpose Zone Districts .....	64
5.18.	Special Dimensional Standards.....	66
5.18.1.	Required Open Space .....	66
5.18.2.	Lots with Frontage on More than One Street .....	66
5.18.3.	Additional Area, Height and Placement Standards .....	66
5.18.4.	Exceptions to Height Limits.....	67
5.18.5.	Averaging an Existing Front Setback Line.....	67
5.18.6.	C1A and C1A/R Districts; Required Setbacks and Open Space.....	68
5.18.7.	Premiums .....	69
5.19.	Parking Standards .....	75
5.19.1.	Applicability.....	75
5.19.2.	Required Parking.....	75
5.19.3.	Special Parking Districts.....	81
5.19.4.	Access .....	82
5.19.5.	Deferred Parking Requirements .....	83
5.19.6.	Barrier Free Parking.....	83
5.19.7.	Use of Off-street Parking Facilities.....	83
5.19.8.	Design of Vehicle Parking Facilities .....	83
5.19.9.	Design of Bicycle Parking Facilities.....	85
5.19.10.	Driveways.....	87
5.20.	Landscaping, Screening, and Buffering .....	87
5.20.1.	Purpose.....	87
5.20.2.	Applicability.....	88

5.20.3.	Vehicular Use Area Landscaping and Screening.....	88
5.20.4.	Conflicting Land Use Buffers.....	90
5.20.5.	Private Streets and Shared Driveway Buffers.....	91
5.20.6.	Refuse/Recycling Container Screening.....	91
5.20.7.	Material and Design Standards for Landscaping, Screening and Buffering.....	91
5.20.8.	Prohibition of Landscaping in Sight Triangles and Intersections .....	93
5.20.9.	Plant Substitutions .....	93
5.20.10.	Trees in the Public Right-of Way .....	94
5.20.11.	Vegetation that Presents Hazards on Public Property .....	94
5.20.12.	Weeds and Grass on Public and Private Land .....	94
5.21.	Streets and Access.....	95
5.21.1.	Applicability .....	95
5.21.2.	Curb Cuts and Driveway Approaches.....	95
5.21.3.	Private Street Standards .....	96
5.21.4.	Lot Accessibility.....	97
5.22.	Storm Water Management and Soil Erosion.....	98
5.22.1.	Purpose.....	98
5.22.2.	Single or Two-Family Residential Stormwater Management.....	99
5.22.3.	Storm Water Management Systems .....	99
5.22.4.	Grading Operation Responsibility.....	102
5.22.5.	Maintenance Standards .....	103
5.22.6.	Liability .....	103
5.23.	Natural Features Protections.....	104
5.23.1.	Mitigation of Natural Features Impacts.....	104
5.23.2.	Natural Features Protection Guidelines .....	105
5.23.3.	Wetlands and Watercourses .....	123
5.23.4.	Preservation of Wetlands .....	124
5.23.5.	Wetland and Watercourse Open Space .....	126
5.23.6.	Protection During Construction .....	128
5.24.	Signs.....	130
5.24.1.	Purpose.....	130
5.24.2.	Applicability .....	130
5.24.3.	Measurement of Sign Height.....	130
5.24.4.	Exterior Business Signs .....	130

5.24.5.	Interior Business Signs.....	132
5.24.6.	Residence Signs.....	132
5.24.7.	Real Estate Signs.....	133
5.24.8.	Political Signs.....	134
5.24.9.	Other Signs Exempt from Sign Permit Requirements.....	135
5.24.10.	Prohibited Signs.....	136
5.24.11.	Off-premise Signs.....	137
5.24.12.	Illumination.....	138
5.25.	Outdoor Lighting.....	138
5.25.1.	Applicability.....	138
5.25.2.	All Exterior Lighting.....	138
5.25.3.	Parking Lots.....	138
5.26.	Fences.....	139
5.26.1.	Applicability.....	139
5.26.2.	Standards.....	140
5.26.3.	Prohibitions.....	140
5.26.4.	Maintenance.....	141
<b>Article V: Administrative Bodies and Procedures.....</b>		<b>142</b>
5.27.	Administrative Bodies and Officers.....	142
5.27.1.	Planning and Development Services Manager.....	142
5.27.2.	Zoning Board of Appeals.....	143
5.27.3.	Planning Commission.....	145
5.27.4.	Design Review Board.....	145
5.27.5.	City Council.....	146
5.27.6.	Summary Procedures Table.....	146
5.28.	General Procedures.....	147
5.28.1.	Public Involvement Requirements.....	147
5.28.2.	Application Filing Requirements.....	150
5.28.3.	Fees.....	150
5.28.4.	Natural Features Protection.....	151
5.28.5.	Public Hearings.....	154
5.28.6.	Certificates of Occupancy.....	156
5.28.7.	Security for Completion of Improvements.....	156

5.28.8.	Development Agreements .....	159
5.28.9.	Administrative Amendments .....	159
5.28.10.	Appeals .....	162
5.29.	Specific Procedures .....	163
5.29.1.	Zoning Compliance Permit .....	163
5.29.2.	Sign Permits.....	164
5.29.3.	Grading Permit .....	166
5.29.4.	Wetlands Use Permit.....	171
5.29.5.	Variance.....	179
5.29.6.	Special Exceptions .....	181
5.29.7.	Site Plans .....	185
5.29.8.	Area Plans.....	195
5.29.9.	Subdivision .....	198
5.29.10.	Rezoning.....	201
5.29.11.	Planned Unit Development (PUD) / Planned Project.....	203
5.29.12.	Design Review.....	216
5.29.13.	Chapter Text Amendment .....	218
5.29.14.	Landscape Modifications.....	219
<b>Article VI: Nonconformities .....</b>		<b>220</b>
5.30.	Purpose Statement.....	220
5.30.1.	General Standards .....	220
5.31.	Special Standards .....	221
5.31.1.	Application of Dimensional Requirements to Lots of Record.....	221
5.31.2.	Nonconforming Off-Street Parking.....	222
5.31.3.	Nonconforming Signs .....	222
5.31.4.	Nonconforming Activities on Wetlands.....	223
5.31.5.	Non-conforming Curb Cuts.....	223
5.31.6.	Existing Easements and Lots .....	223
5.31.7.	Modification of Existing Special Exception Use That Does Not Have Approved Special Exception Permit.....	223
<b>Article VII: Enforcement, Violations, and Penalties .....</b>		<b>224</b>
5.32.	Enforcement and Violations .....	224

5.32.1. General Provisions ..... 224

5.32.2. Specific Provisions ..... 224

5.33. Penalties ..... 226

5.33.1. General Provisions ..... 226

5.33.2. Specific Provisions ..... 227

Article VIII: Definitions ..... 230

5.33.1. Generalized Terms ..... 230

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# Chapter 55

## Ann Arbor Unified Development Code

### Article I – General Provisions<sup>1</sup>

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#### 5.1. Authority

This Ordinance is enacted pursuant to the powers granted by the laws of the State of Michigan including the statutory authority granted in the Michigan Zoning Enabling Act (PA 110 of 2006) as amended, MCL 125.3101 et. seq., the Natural Resources and Environmental Protection Act (Part 91 of P.A. 451 of 1994) as amended, MCL 324.9101 et. seq., the Land Division Act (P.A. 288 of 1967) as amended, MCL 560.101 et seq., and other relevant laws of the state.<sup>2</sup> In addition, the City of Ann Arbor has been granted authority, by the State of Michigan, as a Municipal Enforcement Agency to issue soil Erosion and sedimentation control permits under the Natural Resources and Environmental Protection Act (Part 91 of 1994 PA 451) as amended.<sup>3</sup>

#### 5.2. Title

This ordinance may be cited as the Ann Arbor Unified Development Code and as Chapter 55 of Ann Arbor City Code.

#### 5.3. Effective Date

This Ordinance was adopted by City Council on \_\_\_\_\_, and became effective on \_\_\_\_\_.<sup>4</sup>

#### 5.4. Purpose<sup>5</sup>

This Ordinance is intended to require City review and approval of the Development of certain Buildings, Structures, and land uses, and the creation of new lots, all of which can have significant economic, social, and environmental impact on the community as a whole and on adjacent parcels and land uses. It is further the intent of this Ordinance to provide for the preservation and management of significant natural features, ensure safe and efficient traffic patterns, and to achieve harmonious relationships between Buildings, Structures, infrastructure, and land uses.

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<sup>1</sup> This is a new section that contains important general provisions that are relevant or apply to the UDC as a whole. It carries forward much of Chapter 55, Article XII, *Legal Status and Effective Date*, but includes proposed new text and provisions from other code sections as indicated. Throughout this document, references to city Building Codes have been changed to Construction Code.

<sup>2</sup> New section.

<sup>3</sup> New authority provision added from Chapter 63 definition.

<sup>4</sup> Replaces current 5:114.

<sup>5</sup> This new section is relocated text from current Ch. 57: Subdivision and Land Use Control but has been modified to apply more broadly to the entire Ordinance. This has been done in lieu of including or repeating this language in multiple sections throughout the Ordinance (e.g., Sec. 5.29.9.A)

## 5.5. Applicability

### 5.5.1. Required Conformity to District Regulations

- A. After the effective date of this Chapter, no Structure or tract of land shall be used or occupied, and no Structure or part of a Structure shall be erected, moved or altered, except in conformity with the regulations in this Chapter for the zoning district or overlay zoning district in which the Structure or land is located, except as otherwise provided in this Chapter.<sup>6</sup>
- B. Without limiting the generality of the previous sentence: No site plan, final preliminary plat, or PUD site plan shall be approved unless the site plan, final preliminary plat, or PUD site plan includes soil Erosion, Sediment control, and Storm Water Management Systems in compliance with the requirements of this Chapter, and the Rules of the WCWRC.<sup>7</sup>
- C. No certificate of occupancy for any Building will be issued under Chapter 100 of this Code unless the applicant for the certificate shall have complied with the requirements of this Chapter and related land Development regulations, stabilized all disturbed soils, and completed any soil Erosion and sedimentation control measures and Storm Water Management Systems contained in any site plan, final preliminary plat, or PUD site plan approved for the applicant.

### 5.5.2. Exceptions<sup>8</sup>

- A. The provisions of this chapter do not apply to land or Structures owned or occupied by a unit or agency of the federal, state, county, or city government or by a public educational institution (including but not limited to the University of Michigan and the Ann Arbor Public Schools), during the time that such land or Structure is used by such unit, agency or institution.
- B. Essential services or Buildings or Structures containing essential services are only required to comply with the soil Erosion and sedimentation control requirements Section 5.22 (Storm Water Management and Soil Erosion), and are not required to comply with other provisions of this Chapter, but those uses and Structures shall be permitted as authorized and regulated by other applicable law and the ordinances of Ann Arbor.<sup>9</sup>
- C. The provisions of this chapter do not apply to private wireless communications facilities licensed or otherwise authorized by a governmental unit or agency, or by a public educational institution, during the time that the land or public Structure upon which it is placed is owned or used by such unit, agency or institution.

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<sup>6</sup> Text from Sec. 5:3(1) Required Conformance to District Regulations, but generally interpreted as applicable to all land regulations.

<sup>7</sup> Text of from Sec. 5:653 and 5:666 (Ch. 63 Storm Water Management). References to Chapter 57 were removed because that content is now in this Chapter. Name changed to reflect change to Washtenaw County Water Resources Commissioner.

<sup>8</sup> Text from Sec: 5:3(2), (3), (4), with revisions to clarify what types of entities are exempt from the UDC.

<sup>9</sup> Text is from current 5:79. Inserted language covers former Chapter 63.

D. Land and Structures sold or otherwise disposed of by a governmental unit or agency, or by a public educational institution, other than to another such unit, agency or institution, shall be subject to the provisions of this chapter to the same extent as if never owned by such unit, agency or institution.

#### 5.5.3. **Liability**<sup>10</sup>

Neither the issuance of permits under the provisions of this Chapter, nor the compliance with the provisions of this Chapter, or with any condition imposed by the PDSU Manager under this Chapter, shall relieve any person from the responsibility for damage to any persons or property otherwise imposed by law, nor impose any liability upon the City of Ann Arbor for damages to persons or property.

#### 5.5.4. **Application to Approved Site and Area Plans**<sup>11</sup>

If a site plan was approved before the effective date of this Chapter, Development may proceed under the provisions of the Prior Zoning and Development Regulations. If an area plan was approved before the effective date of this Chapter, it may proceed to site plan approval under the provisions of the Prior Zoning and Development Regulations, provided that their site plan is submitted to the City within three years of the date of approval of the area plan. If a site plan is not submitted to the City within three years of the area plan approval then the site plan must conform to the requirements set forth in this Chapter.

## 5.6. Applicability of Other Regulations<sup>12</sup>

5.6.1. This chapter is intended to complement other municipal, state, and federal regulations that affect land use, but is not intended to revoke or repeal any other law, ordinance, regulation, or permit.

5.6.2. Other codes that are applicable to Development in the city include but are not limited to:<sup>13</sup>

- A. Michigan Building Code 2009;
- B. Michigan Rehabilitation Code For Existing Buildings 2009;
- C. Michigan Plumbing Code 2009;
- D. Michigan Mechanical Code 2009;
- E. Michigan Electrical Code Based On The 2008 National Electrical Code with Part 8 State Amendments;

<sup>10</sup> Text from Chapter 63, Sec. 5.671 and now made applicable to the full UDC.

<sup>11</sup> This text previously referred to site plans and area plans submitted before January 1, 1967 (i.e. a date related to the last time key regulations were recodified), but has been modified to apply to similar documents filed before the effective date of this Chapter. In addition, the language was broadened to apply to all of the included chapters, not just Chapter 55. The three year period is from current from 5:121(4).

<sup>12</sup> This is a new section to clarify legal requirements and current practice.

<sup>13</sup> Dates and titles of each document have been updated to reflect the version currently in effect. Items A, B, C, D, E and J are adopted by the Construction Code (Chapter 100).

- F. ICC / ANSI A117.1 – 2003 & Michigan Barrier Free Design Law of Public Act 1 Of 1966 as amended;
- G. Michigan Uniform Energy Code 2009 with Rules 10 and 10a;
- H. International Fire Code 2003;
- I. International Fuel Gas Code 2009;
- J. Michigan Residential Code 2009; and
- K. Rules of the WCWRC.
- 5.6.3. Where conditions, standards, or requirements imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable standards imposed by any other law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern. Where there is a conflict under this section, the PDSU shall determine which district or provision is more restrictive.
- 5.6.4. 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 that are subject to approval of variances or other action of appeal boards.<sup>14</sup>

## 5.7. Relationship to Private Agreements<sup>15</sup>

It is not the intent of this Chapter to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties concerning any property or activity regulated by this Chapter. Where the provisions of this Chapter impose a greater restriction than that imposed by a private agreement, the provisions of this Chapter will control. Where the provisions of a private agreement impose a greater restriction than this Chapter, the provisions of the private agreement may be enforced between private parties notwithstanding the provisions of this Chapter. The existence of a private agreement shall not excuse any failure to comply with this title. The City of Ann Arbor shall not be responsible for monitoring or enforcing private agreements.

## 5.8. Severability

It is the legislative intent of the City Council in adopting this Chapter that all provisions and sections of this Chapter 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 that if any provision, portion, section or subsection of this Chapter is held to be unconstitutional or invalid, that holding shall not be construed as affecting the validity of any of the remaining provisions, portions, sections or subsections; it

<sup>14</sup> Text from Sec. 5:136 *Subdivision* but made applicable to the full UDC to reflect current City practice.

<sup>15</sup> This is a new section to clarify legal requirements and current practice.

being the intent of the City Council that this Chapter shall stand, notwithstanding the invalidity of all or part of any provision or section.<sup>16</sup>

## 5.9. Repeal of Previous Regulations

### 5.9.1. Repeal<sup>17</sup>

The following regulations of the City of Ann Arbor as amended, are hereby repealed.

- A. Chapter 26: Placement and Screening of Refuse Containers
- B. Sections, 4:16 through 4:20, and 4:30 of Chapter 47: Streets and Curb Cuts
- C. Chapter 55: Zoning Ordinance
- D. Chapter 56: Prohibited Land Uses
- E. Chapter 57: Subdivision and Land Use Controls
- F. Chapter 59: Off-Street Parking
- G. Chapter 60: Wetlands Preservation
- H. Chapter 61: Signs and Outdoor Advertising
- I. Chapter 62: Landscaping and Screening
- J. Chapter 63: Soil Erosion and Sedimentation Control
- K. Chapter 104: Fences

### 5.9.2. Violations of Previous Regulations

The adoption of this Chapter shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of Chapter 55, as amended before the effective date of this Chapter, if that violation, is also a violation of the provisions of this Chapter.

<sup>16</sup> Supplements the general savings clause applicable to the entire municipal code.

<sup>17</sup> From current 5:113, with revisions to reference current zoning ordinance. Although Chapter 47 was initially listed as a chapter from which material would be incorporated, no material was in fact incorporated, so that chapter was dropped from this list.

# Article II – Zoning Districts

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## 5.10. General<sup>18</sup>

### 5.10.1. Classification of Districts

Ann Arbor is hereby divided into zoning districts and overlay zoning districts listed in this Article II.

### 5.10.2. Zoning District Boundaries Shown on the Zoning Map

The boundaries of the zoning districts and overlay zoning districts are hereby established as shown on the zoning map that accompanies this chapter and that, with all notations, references and other information shown on that map, shall be as much a part of this chapter as if fully described in this Chapter. The required front setbacks for downtown character overlay zoning districts are hereby established as shown on the Building Frontage map that accompanies this chapter and that, with all notations, references and other information shown on that map, shall be as much a part of this chapter as if fully described in this Chapter. The electronic version of the zoning map and Building Frontage map reflecting all amendments approved by City Council shall be certified as the official copies by the City Clerk. Maps and descriptions accompanying enacted amendments shall be displayed adjacent to the official copy until such time as the official copy is corrected.<sup>19</sup>

### 5.10.3. Interpretation of the Zoning Map

Where, due to the scale, lack of detail or illegibility of the zoning map accompanying this chapter, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown on that map, the Zoning Board of Appeals shall make an interpretation concerning the exact location of the zoning district boundary. The Board, in arriving at a decision on these matters, shall apply the following standards:

- A. Zoning district boundary lines are intended to follow Lot Lines, or be parallel or perpendicular to Lot Lines, or along the center lines of alleys, streets, rights-of-way or Watercourses, unless the zoning district boundary lines are fixed by dimensions as shown on the zoning map.
- B. Where zoning district boundaries approximately follow Lot Lines, the Lot Lines shall be construed to be the boundaries.
- C. In unsubdivided property, or where a zoning district boundary divides a lot, and no dimensions are shown on the zoning map the location of any boundary shall be determined by the use of the map scale shown on the map.
- D. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary, the Zoning Board of Appeals shall determine and fix the location of the line in a reasonable manner.

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<sup>18</sup> Text from Sec. 5.2 through 5.5.

<sup>19</sup> Revised to refer to electronic map and to delete references to keeping paper copies on file.

**5.10.4. Relationship of Base and Overlay Zoning Districts**

If a property is included in an overlay district listed in section 5.14, the regulations governing Development in the overlay district shall apply in addition to the regulations governing Development in the underlying base district. In the event of an express conflict between the two sets of standards, the standards for the base shall control.<sup>20</sup>

**5.11. Residential Zone Districts<sup>21</sup>****5.11.1. AG Agricultural-Open Space District**

In order to preserve Open Space and to provide a desirable environment in Ann Arbor and to insure that the benefits of Open Space, light, air and private recreational activities can exist in well-planned locations throughout the city; to protect vacant lands until their appropriate land usage can be determined; to provide areas where farming can exist in the city both as an industry and to preserve, for the residents of Ann Arbor, examples of a lifestyle that is rapidly disappearing; and to control the proximity of these uses to other uses; it is deemed appropriate to designate areas in the city for farming and Open Space uses.

**5.11.2. R1A, R1B, R1C, R1D and R1E Single-family Dwelling District<sup>22</sup>**

- A. These single-family residential zoning districts are designed to provide an environment of predominantly low-density, single-family detached dwellings, along with other related facilities that serve the residents in the district such as schools, recreational facilities, Parks, and Religious Assembly<sup>23</sup>. These districts should be convenient to commercial facilities and public transportation.
- B. These districts are intended to encourage the preservation and the continuation of the longstanding residential fabric in existing neighborhoods of predominantly single-family dwellings, along with other related facilities that serve the residents in these districts.
- C. Application of the R1D and R1E district in newly developing areas may require a greater degree of services than the less dense Single-family Dwelling districts. To assure health, safety and welfare, any future R1D and R1E zoning in newly developing areas should be contingent upon the availability or provision of adequate public services to serve the higher densities permitted by that district, in addition to other pertinent planning considerations.

<sup>20</sup> New provision to clarify current practice.

<sup>21</sup> This section includes the intent statements and any district-specific standards of the residential zoning districts. The list of permitted and Accessory Uses and associated use-specific standards for each district have been relocated to proposed Article III, Use Regulations. References to the R4A/B Multiple-family dwelling district have been deleted because that district no longer exists.

<sup>22</sup> Revised to include references to R1E zone district.

<sup>23</sup> The current text reads “churches”, but the name for that use has been changed.

**5.11.3. R2A Two-family Dwelling District**

This district is intended to provide residential areas in the city that are suitable for 2 single-family attached dwellings occupying 1 lot. The district is intended to create areas of essentially single-family residential character utilizing 2 Single-family Dwelling Units that are attached either side to side or vertically. The district is intended to be similar to the higher density single-family detached dwelling districts, except for the different type and slightly higher density of Dwelling Units. Locational criteria for the application of this district should include the availability or provision of adequate public services to serve such higher densities. It may be used as a transition zone between single-family areas and other areas.

**5.11.4. R2B Two-family Dwelling and Student Housing District**

This district is intended to permit single- and two-family dwellings as well as to permit in the vicinity of The University of Michigan Campus the operation of fraternities, sororities and student cooperatives affiliated with the university as well as privately-owned fraternities, sororities and student cooperatives. A further intent of this zoning district is to preserve the unique character and quality of the physical environment in this area of the city. The area is characterized by the presence of many large and architecturally distinctive houses set on relatively large lots. Many sites housing those Structures are characterized by large front yard setbacks, mature and harmonious tree growth, and uniformity in architectural characteristics such as scale and use of materials. Any alteration to existing Structures and/or construction of new facilities should harmoniously reflect the overlying character of the surrounding environs.

**5.11.5. R3 Townhouse Dwelling District**

This district is intended to permit Dwelling Units to be arranged side by side in a low-density, multiple-family fashion. These developments are most appropriate in the established areas of the city for infill purposes and perimeter areas of the city for large new developments and should provide the physical and social amenities of Open Space, recreational facilities and compatibility with other residential land uses.

**5.11.6. R4A Multiple-family Dwelling District**

This district is intended to permit Dwelling Units to be arranged either side by side or one above the other in a low-density, multiple-family fashion. These developments are most appropriate in perimeter areas of the city.<sup>24</sup> Developments should provide sufficient open land area to make them compatible with surrounding land uses and to provide for their residents an environment that is more than merely physically safe and healthy.

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<sup>24</sup> Text deleted per ORD-10-34-Ch.55.



**5.11.7. R4B, R4C, R4D and R4E Multiple-family Dwelling Districts<sup>25</sup>****A. General Purpose Statement**

The multiple-family dwelling districts are intended to permit Dwelling Units to be arranged one above the other or side by side.

**B. Specific Purpose Statements**

1. The R4B district should be located in intermediate areas of the city, situated on small tracts of land in established areas for in-fill purposes or medium sized tracts of land for moderate-sized developments.
2. The R4C district is intended to be located in the central area of the city in close proximity to the central Business district and The University of Michigan Campus.
3. The R4D multiple-family dwelling district is intended to permit higher density in the form of high-rise Buildings on substantial tracts of land located in areas other than the central Business district. Land use planning and site design should minimize the impact of the permitted intensity of land use on adjacent property and on the community as a whole. Some of the criteria used in determining the location of this zoning district include:
  - a. The presence of natural land features that may be used to advantage in scaling down the potential impact.
  - b. The location would enhance the bypasses and entrance ways to the city and provide a community focal or identity point.
  - c. The location would provide housing opportunities near outlying commercial, service or employment centers.
4. The R4E multiple-family dwelling district is intended to permit high-density, multiple-family Development along signature transit corridors, as identified in the City's Master Plan, with nearby access to public land, schools, shops, and Personal Services outside the DDA boundary. The elements of land use planning and site design should ensure that the impact of such intensity of land use on adjacent property and on the community as a whole is minimized.

**5.11.8. R6 Mobile Home Park District**

This district is intended to permit a transportable Dwelling Unit that is suitable for year-round occupancy and contains the same kind of water supply and water disposal system as immobile housing, in accordance with state, county and City statutes, ordinances and regulations, including but not limited to the National Manufactured Housing Construction & Safety Standards Act of 1974 (42 U.S.C.A. 5401 *et. seq.*). These developments shall be located on sites of sufficient size that enable Development to be interspersed with functional Open Space.<sup>26</sup>

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<sup>25</sup> References to the R4C/D Multi-family Dwelling district were deleted because that district no longer exists, and references to R4E district were added.

<sup>26</sup> Sentence reading "This district is intended to serve families and individuals who prefer living in an environment that offers detached housing alternatives" as unnecessary. Reference to federal act added.

## 5.12. Mixed Use Zoning Districts<sup>27</sup>

### 5.12.1. O Office District

This district is intended primarily for Office Buildings. The Office district classification will be applied as a transitional use buffer between residential uses and uses which would be incompatible in direct contact with residential zoning districts.

### 5.12.2. C1 Local Business District

This district is designed solely to serve the needs of the surrounding residential neighborhood, providing goods that are day-to-day needs and are classed by merchants as "convenience goods and services." The normal spacing between these shopping districts is approximately 1 mile, and the total land area averages 2 acres. Businesses that might tend to be a nuisance to the immediately surrounding residential Development are excluded, even though the goods or services offered might be in the convenience category or classification. The regulations are designed to permit Development of the enumerated functions as limited by the standards designed to protect the abutting or surrounding residential land. The regulations establish standards comparable to the standards for residential zoning districts to result in similar area, height and Building placement.

### 5.12.3. C1A Campus Business District

This district is designed primarily to serve as a neighborhood shopping area for the university-oriented population that is concentrated around it, providing goods that are day-to-day needs, specialty shops and recreation. While the primary function of this district is to serve as a neighborhood shopping area for the student/faculty population concentrated around it, it also has a community-wide orientation due to its unique and distinctive commercial function peculiar to university-oriented population. These districts shall be located in close proximity to the central area of the city.

### 5.12.4. C1B Community Convenience Center

This district is designed primarily to serve the needs of the surrounding community. This includes establishments that although they serve primarily a surrounding neighborhood, could also serve a larger trade or service area. These districts tend to create greater environmental stresses than those districts permitted under C1, even though the goods or services offered might be in the convenience category or classification. Most persons entering this district will come by auto and typically park once. The economic welfare of merchandising activities in these districts depends on moderate Development of comparison shopping. Office building activities are compatible with the purpose of the district as long as adequate and convenient automobile parking can be provided for both the Office and the retail merchandising activity.

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<sup>27</sup> This section contains the "mixed use" districts. In this UDC, the term "mixed use" includes districts that allow as principle uses of land both (a) residential and (b) commercial, institutional, or industrial uses of land.

**5.12.5. C1A/R Campus Business Residential District****A. Purpose Statement**

This district is designed to encourage the orderly clustering and placement of high-density residential and complementary commercial Development near the campus Business district.

**B. Special Standards**

All commercial uses other than Office uses shall not be permitted above the third Story.

**5.12.6. D1 and D2 Downtown Districts****A. General Purpose Statement**

These districts, in coordination with the downtown character overlay zoning districts in section 5.14, are designed to support the downtown as the city's traditional center. The downtown serves both the region and local residents as a place to live, work, and take advantage of civic, cultural, educational, shopping, and entertainment opportunities. The downtown districts are intended to allow a mixture of land uses, dense urban development, pedestrian orientation, unique residential opportunities, and a compatible and attractive mix of historic and contemporary building design. Development in these districts is designed to be accessible by a variety of modes of transportation.

**B. Specific Purpose Statements****1. D1 - Downtown Core District**

This district is intended to contain the downtown's greatest concentration of Development and serves as a focus for intensive pedestrian use. This district is appropriate for high-density mixed residential, Office and commercial development.

**2. D2 - Downtown Interface District**

This district is intended to be an area of transition between the D1 and surrounding residential neighborhoods. This district is appropriate for medium density residential and mixed-use development.

**C. Relationship to Downtown Character Overlay Zoning Districts**

The D1 and D2 downtown zoning districts shall be further regulated by the downtown character overlay zoning districts in section 5.14. Unless otherwise specified in this chapter, regulations identified for both the downtown district and the applicable downtown character overlay zoning district shall apply.

**5.12.7. C2B Business Service District**

This district is designed to provide for certain types of commercial activities that have functional and economic relationships to a central Business or fringe

commercial district.<sup>28</sup> In this district the customer may come to the particular establishment either by automobile or as an extension of downtown pedestrian shopping activity. Since there is little essential interdependence of activities, each establishment can have its own automobile parking area. Good traffic accessibility is essential to this district, particularly for trucks and other freight carriers. The uses permitted, because of their required contact with auto and truck traffic, would be incompatible in the central Business district.

#### 5.12.8. C3 Fringe Commercial District

The design and regulations of this district are set up to provide for certain types of commercial activities that have characteristics in common. In this district, the customer usually comes directly to the particular establishment by automobile, making a separate stop for each errand. Comparison shopping activity is less than in the downtown area. Since there is little essential interdependence of activities, establishments can be dispersed over considerable areas with each establishment having its own automobile parking. Good automobile accessibility is essential to these districts. The uses permitted, because of their lack of intense pedestrian activity and their required contact with auto access, would be incompatible in the downtown area.

### 5.13. Nonresidential and Special Purpose Zone Districts

#### 5.13.1. R5 <sup>29</sup>Hotel District

This district is intended to permit hotels and certain institutional housing uses that provide nursing care for convalescence from illness or special care for the elderly along with uses that are accessory to these Principal Uses.

#### 5.13.2. P Parking District

This district provides for off-street storage of noncommercial vehicles where no repair, sales or services are rendered from the parking lot.<sup>30</sup>

#### 5.13.3. PL Public Land District

This district is designed to classify publicly-owned uses and land and permit the normal principal and incidental uses required to carry out governmental functions and services.

<sup>28</sup> We deleted a sentence reading as follows to avoid the risk of inconsistency between specific uses listed in an intent statement and those in the permitted use tables: “Such activities will include wholesale suppliers retail and supply warehouses, motor vehicle major repair and service agencies, carports and other parking establishments, equipment and machinery dealers, building materials dealers, food processing plants, farm and garden supply stores, places of entertainment or Recreation, Public Utility facilities and retail establishments related in a peripheral manner to those of the central business district.”

<sup>29</sup> Texts edits per ORD-10-34-Ch.55.

<sup>30</sup> Deleted language reading “This district will be located, in many instances, within 500 feet of a Principal Use to provide the parking required by chapter 59 (or as modified by central area high-rise and parking report)” to reduce risks of inconsistency with zoning map.

#### 5.13.4. RE Research District

##### A. Purpose Statement

This district is designed for research facilities to serve the needs of commerce, industry, Business and education. The prime characteristics of this district are the low intensity of land coverage, campus-like developments, preservation of significant Natural Features, and the absence of nuisance factors such as excess noise, heat or glare, air pollution or waste water production.

##### B. Special Standards

All uses established in the RE district must comply with the following requirements:

1. Outdoor storage of equipment, goods, or materials is prohibited unless contained within a screened area shown on an approved site plan.<sup>31</sup>
2. All ingress and egress shall be screened from residential zoning districts and no parking shall be allowed within a required Open Space that abuts a residential zoning district.
3. No process carried on within the Building shall cause noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat, glare, dust, vibration, light, or odor discernible at the property lines.
4. All hazardous materials, waste, and wastewater associated with the use shall be handled and disposed of in a manner that is not dangerous to the health and safety of the abutting areas.
5. The emissions of air pollution shall not be detrimental to the public welfare.

#### 5.13.5. ORL Office/Research/Limited Industrial District

##### A. Purpose Statement

This district is designed to provide for a mixture of research, Office and light industrial uses whose external effects are restricted to the site and do not adversely impact surrounding districts. The ORL district is structured to permit the manufacturing, processing, packaging, assembly, or treatment of finished or semi-finished products from previously prepared materials. The preservation of significant Natural Features and the encouragement of low-density, campus-like layouts are objectives for the establishment of such zones.

##### B. Special Standards

All uses established in the ORL District must comply with the following requirements:

1. Outdoor storage of equipment, goods, or materials is prohibited unless contained within a screened area shown on an approved site plan.
2. Loading facilities shall be provided. Truck storage areas must be provided in addition to the parking required by section 5.19 where such storage is necessary for the operation of the use. Truck storage areas must meet the Parking Lot standards of section 5.19. Loading facilities and truck storage

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<sup>31</sup> Language clarified to be consistent with the language used for the ORL district.

areas must be screened from abutting residential uses and public street rights-of-way according to section 5.20.

3. All ingress and egress shall be screened from residential zoning districts and no parking shall be allowed within a required Open Space that abuts a residential zoning district.
4. No process carried on within the Building shall cause noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat, glare, dust, vibration, light, or odor discernible at the property lines.
5. All hazardous materials, waste, and wastewater associated with the use shall be handled and disposed of in a manner that is not dangerous to the health and safety of abutting areas.
6. The emissions of air pollution shall not be detrimental to the public welfare.

#### 5.13.6. M1 Limited Industrial District

This district is established to provide land for various types of industrial and manufacturing uses that are compatible with one another. The lands included in this district are those suited for use primarily by industries characterized by low land coverage, the absence of objectionable external effects and the possibility of large setbacks, attractive Building architecture and large, landscaped park-like areas. The purpose of the district is to provide suitable sites for such uses while making certain that the allowed uses will be compatible with adjacent or surrounding districts. To these ends, Development is limited to a low concentration, external effects are minimized and permitted uses are limited to those which are adapted to an environment of this nature. The regulations are also designed to stabilize and protect the essential characteristics of the district by excluding uses that would have a detrimental effect upon the orderly development and functioning of the district. Manufacturing plants and uses shall have performance characteristics similar to those uses allowed in this district in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation. All uses shall be designed, constructed and operated so that there is no production of noise discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the lines, nor any production of heat or glare discernible at the lots lines.<sup>32</sup>

#### 5.13.7. M1A Limited Light Industrial District.

This district is established to provide land for various types of industrial manufacturing and low intensity commercial activity uses that are compatible with one another. The lands included in this district are those suited for use primarily by industries characterized by low land coverage, the absence of objectionable external effects and the possibility of large, landscaped, park-like areas. The purpose of the district is to provide suitable sites for such uses while making certain that such uses are limited to those that are adapted to an environment of this nature. The regulations are also designed to stabilize and protect the essential characteristics of

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<sup>32</sup> Final words of sentence changed from “same point” to “lot lines” to reflect current practice.

the district by excluding uses that would have a detrimental effect upon the orderly development and functioning of the district. Manufacturing plants and uses shall have performance characteristics similar to those uses allowed in this district in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation. All uses located within this district shall be designed, constructed and operated so that there is no production of sound discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the lines, nor any production of heat or glare discernible at the Lot Lines.

#### **5.13.8. M2 Heavy Industrial District**

This district is designed to provide land for more intense types of industrial and manufacturing uses that are usually located deep within the industrial areas of the city and downwind from residential and Business areas. Regulations to minimize their incompatibility with other residential zoning districts are the minimum required for mutual protection of the industrial areas. The district should not be adjacent to any residential or Business district if that can possibly be avoided.

#### **5.13.9. PUD Planned Unit Development District**

##### **A. Purpose Statement**

The purpose of this district is to permit flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout and type of Structures constructed; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; to encourage provision of usable Open Space and protection of Natural Features; to provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the city; to expand the supply of Affordable Housing for Lower Income Households and to encourage the use, reuse and improvement of existing sites and Buildings that will be developed in a compatible way with surrounding uses but where the uniform regulations contained in other zoning districts do not provide adequate protections and safeguards for the site or surrounding area. The district is intended to accommodate developments with one or more land uses, sites with unusual topography or unique settings within the community or sites that exhibit difficult or costly Development problems or any combination of these factors. This zoning district shall not be allowed where it is sought primarily to avoid the imposition of standards and requirements of other zoning classifications or other city regulations rather than to achieve the stated purposes above.

##### **B. Special Standards**

Any use or combination of uses and accessory uses permitted in the Supplemental Regulations for the PUD zoning district adopted pursuant to section 5.29.11.A shall be permitted.

## 5.14. Overlay Zone Districts<sup>33</sup>

### 5.14.1. Downtown Character Overlay Zoning Districts

#### A. General Purpose Statement

The purpose of these overlay zoning districts is to supplement the regulations for the D1 and D2 districts<sup>34</sup> to reflect the diversity of historical and built environments within the downtown. These character overlay zoning districts account for differences in the existing street pattern, density, massing and design features that exist throughout the downtown, in addition to the intent of the City for the future Development of each area.

#### B. Specific Purpose Statements

##### 1. South University<sup>35</sup>

The South University Overlay District lies along the southeastern edge of the University of Michigan Central Campus, which separates it from the other mixed use districts of downtown. This is an area characterized by a mix of Building types and sizes, with retail uses at the street level and relatively narrow Lot Widths. The intent for this district is to maintain a variety in scale, with design that reflects the small-scale widths and heights of Buildings in the area at the Streetwall and locates taller portions toward the interior of the lot. The South University D2 Character District lies just outside the DDA boundaries, adjacent to nearby residential neighborhoods. The intent for this district is to maintain a variety of small-scale commercial and retail enterprises mixed with some residential uses, minimizing the impact on nearby residential streets.

##### 2. State Street

The State Street Overlay District frames the northwest corner of the University of Michigan central campus and defines the edge of the commercial core. This area is characterized by a mixture of entertainment and retail uses with strong connections to the campus. The intent for this district is preservation of the integrity of the historic district properties and the overall historic character of the area, with design that includes features of the traditional commercial storefronts at the sidewalk's edge.

##### 3. Liberty/Division

The Liberty/Division Overlay District is located in the core of downtown, yet retains a small-scale residential character. A significant portion of this district coincides with the East William Historic District, and for this reason, preservation of the integrity of these resources is a high priority, as is the retention of the overall sense of scale. While increased building mass can be

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<sup>33</sup> The overlay section incorporates all the text from Sec. 5.10.20, *Downtown Character Overlay Zoning Districts*, except the definitions from 5.10(3)(b) have been relocated to Article VIII Definitions. In addition, a section has been added for the pending floodplain overlay that is currently under consideration by the city.

<sup>34</sup> "D1 and D2 districts" replaces "districts in the downtown".

<sup>35</sup> Each of these "districts" is now termed an "overlay district" to clarify that its provisions supplement, but do not replace, the provisions of the underlying base zoning district.



accommodated in this district, it is the intent to maintain the traditional scale and rhythm of residential Buildings.

**4. East Huron 1 and 2**

The East Huron 1 and 2 Overlay Districts center along the eastern portion of the Huron Street civic corridor. These areas differ from most of downtown in that the uses are primarily institutional and are seen "in the round" with Open Space surrounding them. The intent for these districts are to continue the tradition of free-standing Buildings with Open Space in front, incorporating design that includes signature building elements that give landmark qualities to properties.

**5. Midtown**

The Midtown Overlay District is framed on all sides by other downtown character residential zoning districts and contains the Fifth Avenue civic corridor. At present, this district lacks a strong sense of identity and is a place where creation of a new context should occur. The intent for this district is higher density Development with a strongly defined street edge and Active Open Spaces.

**6. Main Street**

The Main Street Overlay District is the traditional heart of downtown, with a regional entertainment and Business focus. The center of the district contains the Main Street Historic District, and preservation of these resources is a high priority. The intent for this district is design that maintains the traditional rhythm of existing storefronts along the street edge and varying parapet lines.

**7. Kerrytown**

The Kerrytown Overlay District frames the north end of downtown and is characterized by a mix of small-scale commercial Buildings and houses that have been adapted to different uses. The eastern part of the district is part of the Old Fourth Ward Historic District, while the southeast corner of the district is located in the Fourth/Ann Historic District. The intent for this district is retaining traditional existing building patterns, with lower-scale Building modules and residential shapes.

**8. First Street**

The First Street Overlay District runs north-south along the Ann Arbor Railroad and Allen Creek floodplain. This area is characterized by oddly-shaped blocks and a mixture of commercial storefronts, industrial Buildings and single-family homes. Many of these Buildings are located in the Old West Side historic district, which makes up much of the character area. The intent for this district is for infill Development that preserves historic Buildings' assets, supports downtown activities, and provides non-motorized connections through preservation of a system of public and common Open Spaces. New Development along the Allen Creek floodplain should be sited to provide green space on site and be located in such a way that it will connect with green space on abutting properties.

### C. Applicability

The Downtown Character Overlay Zoning Districts provide additional regulations to the D1 and D2 districts. Unless otherwise specified in this Chapter, regulations identified for both the downtown district and the applicable downtown character overlay zoning district shall apply. In the case of a direct conflict between base zoning districts and overlay zoning district, the base zoning district provisions shall apply.

### D. Building Massing Standards

Buildings and additions constructed after December 26, 2009 on lots zoned D1 or D2 in the Downtown Character Overlay Zoning Districts shall comply with the Building massing standards in Table 5:14-1, as applicable.

OVERLAY ZONING DISTRICT	STREETWALL HEIGHT (STORIES)		OFFSET AT TOP OF STREETWALL REQUIRED AVERAGE (FEET) [1]	MAX. BUILDING HEIGHT (FEET)		MAXIMUM BUILDING MODULE LENGTH (HORIZONTAL DIMENSION IN FEET)	SIDE AND REAR SETBACKS
	MAX.	MIN.		D1 DISTRICT	D2 DISTRICT		MINIMUM DISTANCE FROM LOT LINE ABUTTING R ZONING DISTRICT
SOUTH UNIVERSITY	3	2	5	150	60	45	For D1, a minimum 30 foot setback. For D2, a minimum 40 foot setback. This setback shall be measured from the rear and side exterior walls of the Building to any R zoning district boundary on the same block as the Building.
STATE STREET	3	2	5	180	n/a	-	n/a
LIBERTY/ DIVISION	3	2	5	180	60	40 (in D2 only)	5 foot setback- side and rear
EAST HURON 1	3	2	-	150	n/a	-	Rear or side exterior wall of the tower shall be located no further than 150 feet from the East Huron property line. Rear or side exterior wall of the Base and the Tower shall be located no closer than 30 feet to a Lot Line abutting a residential zoning district. The Required Setback shall not reduce the width or depth of a lot suitable for Building to less than 25 feet.
EAST HURON 2	4	2	5	180	n/a	-	n/a
MIDTOWN	4	2	5	180	n/a	-	n/a
MAIN STREET	4	2	5	180	n/a	-	n/a
KERRYTOWN	3	2	5	n/a	60	40	10 foot setback - side 20 foot setback - rear
FIRST STREET	3	2	5	n/a	60	66	15 foot setback - side 30 foot setback - rear 10 foot offset - side

TABLE 5:14-1: DOWNTOWN CHARACTER OVERLAY ZONING DISTRICTS BUILDING MASSING STANDARDS							
OVERLAY ZONING DISTRICT	STREETWALL HEIGHT (STORIES)		OFFSET AT TOP OF STREETWALL REQUIRED AVERAGE (FEET) [1]	MAX. BUILDING HEIGHT (FEET)		MAXIMUM BUILDING MODULE LENGTH (HORIZONTAL DIMENSION IN FEET)	SIDE AND REAR SETBACKS
	MAX.	MIN.		D1 DISTRICT	D2 DISTRICT		MINIMUM DISTANCE FROM LOT LINE ABUTTING R ZONING DISTRICT
[1] For corner parcels with a lot size of less than 5,000 square feet, no offset is required. The minimum required offset at the top of the Streetwall shall be measured from exterior face of the Building at the top of the Streetwall to the closest point of the exterior face of the Tower. For purposes of applying the required average offset at the top of the Streetwall, a total surface area greater than or equal to the product of the width of the Building Base multiplied by the required offset shall be provided between the exterior face of the Building at the top of the street wall and the exterior face of the Tower.							

**E. Building Frontage Standards**

1. These Building Frontage designations are designed to support the pedestrian-scale character of downtown streets.
  - a. **Primary Street**  
Lot frontage where placement of Buildings at the front property line is required.
  - b. **Secondary Street**  
Lot frontage where a range of Building setbacks from the front property line is required.
  - c. **Front Yard Street**  
Lot frontage where a setback from the front property line is required.
2. Buildings and additions constructed after December 26, 2009 on lots zoned D1 or D2 in the Downtown Character Overlay Zoning Districts shall comply with the Building Frontage standards in Table 5:14-2, as applicable.

TABLE 5:14-2: DOWNTOWN CHARACTER OVERLAY ZONING DISTRICTS BUILDING FRONTAGE STANDARDS			
DESIGNATION AT RIGHT-OF-WAY LINE	REQUIRED FRONT SETBACK (FEET)		ADDITIONAL REQUIREMENTS AND EXCEPTIONS
	MINIMUM	MAXIMUM	
PRIMARY STREET	0	1 at the Streetwall	(1) Up to 20% of the Building Frontage may exceed the maximum front setback requirement for entry court or plaza area, except in the Main Street Overlay Zoning District. (2) The maximum front setback may be exceeded up to a maximum of 16 feet from the back of curb to allow for pedestrian circulation. (3) Vehicle access shall be provided from a public alley, if accessible. (4) Recesses and alcoves on the level of the adjacent street to accommodate entry ways, display windows, planters, or similar features shall not be considered as setbacks, provided the Streetwall of upper stories complies with the maximum required front setback.

<b>TABLE 5:14-2: DOWNTOWN CHARACTER OVERLAY ZONING DISTRICTS BUILDING FRONTAGE STANDARDS</b>			
<b>DESIGNATION AT RIGHT-OF-WAY LINE</b>	<b>REQUIRED FRONT SETBACK (FEET)</b>		<b>ADDITIONAL REQUIREMENTS AND EXCEPTIONS</b>
	<b>MINIMUM</b>	<b>MAXIMUM</b>	
<b>SECONDARY STREET</b>	0	10 at the Streetwall	Up to 20% of the Building Frontage may exceed the maximum front setback requirement for entry court or plaza area,
<b>FRONT YARD STREET</b>	15	-	The average of the Established Front Setback of Buildings within 100 feet may be used, if less than 15 feet. Unenclosed porches may encroach 8 feet into the required front Open Space.

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# Article III – Use Regulations<sup>36</sup>

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## 5.15. Permitted Use Table<sup>37</sup>

Abbreviations in Table 5-15 shall have the following meanings.

### 5.15.1. Permitted Uses

These uses are permitted by right in the district. Permitted uses are identified with a "P".

### 5.15.2. Special Exception Uses

These uses may be allowed in a district subject to review and approval by the Planning Commission. Special Exception Uses are identified with an "E". A Special Exception Use is subject not only to the minimum requirements for that use in the zoning district in which it is located, but also to the applicable standards and requirements found in section 5.29.6. Special conditions may be imposed by the Planning Commission in order to make the use compatible with the uses permitted by right in that zoning district.

### 5.15.3. Accessory Use

Accessory Uses. Any Accessory Use incidental to the permitted Principal Use is permitted, unless otherwise permitted or restricted by this Chapter. Accessory Uses are identified with an "A".

### 5.15.4. Prohibited Uses

These uses are not permitted in the district. Prohibited uses are identified with a blank cell.

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<sup>36</sup> All text came from Article II: Use Regulations, unless otherwise noted. The contents of current Chapter 56 Prohibited Land Uses have been relocated to use specific standards. The table on the following pages consolidates numerous uses that had similar names and definitions (or no definitions) in different zoning districts, which city staff have interpreted as the same use, in order to simplify and reduce the length of the table. The table reflects staff's reading of the use controls in the current zoning ordinance.

<sup>37</sup> Text from Sec. 5:6, except that portions of subsections (1) that were repetitive of material in Article I were not carried over, and (2) provisions subsections (2) – (5) were incorporated into the use table and so are not included here.

**TABLE 5-15: PERMITTED USE TABLE**

P= PERMITTED

E = SPECIAL EXCEPTION

A= PERMITTED ACCESSORY USE

BLANK CELL = PROHIBITED

NOTE: ALL PROPERTIES IN OVERLAY DISTRICTS ARE SUBJECT TO THE ADDITIONAL USE REGULATIONS IN SEC. 5-13

NOTE: ALL PROPERTIES ARE SUBJECT TO THE ADDITIONAL STANDARDS INDICATED FOR THAT USE IN THE RIGHT COLUMN

NOTE: SPECIFIC USES IN THE C1A/R, RE, AND ORL DISTRICTS ARE SUBJECT TO ADDITIONAL STANDARDS FOUND IN SECTIONS 5.11.6, 5.12.4, AND 5.12.5 RESPECTIVELY

USE CATEGORY AND TYPE	RESIDENTIAL																MIXED USE								NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS				
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>39</sup>	C3	R5	P	PL	RE <sup>40</sup>	ORL <sup>41</sup>	M1	M1A	M2	5.15		
<b>PRIMARY USES</b>																																			
<b>RESIDENTIAL</b>																																			5.16.1
<b>Household Living</b>																																			
Adult Foster Care <sup>42</sup>		P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P				P							
Dwelling, Assisted Living											P	P	P	P		P	P	P	P	P	P	P	P					P							
Dwelling, Multi-Family											P	P	P	P		P	P	P	P	P	P	P	P					P	E <sup>43</sup>						5.16.1.A
Dwelling, Single Family	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P				P							5.16.1.A; 5.16.1.B	
Dwelling, Townhouse										P	P	P	P	P		P	P	P	P	P	P	P	P					P							5.16.1.A
Dwelling, Two Family							P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P					P							5.16.1.A
House Trailer Park															P																				5.16.1.A
<b>Group Living</b>																																			
Emergency Shelter											P	P	P	P		P	P	P	P	P	P	P	P												
Fraternities, sororities, and student cooperatives								E		E	E	E	E	E		E	P	P	P	P	P	P	P												5.16.1.A; 5.16.1.D
Group Housing <sup>44</sup>								E		E	P	P	P	P		P	P	P	P	P	P	P	P												5.16.1.A; 5.16.1.E

<sup>38</sup> Additional use restrictions for the C1A/Residential zoning districts are listed in Section 5.12.6.

<sup>39</sup> Some uses were carried forward from the old C2A District as stated in current Sec. 5:10.21(2)(a).

<sup>40</sup> Additional use restrictions for the RE district are listed in Section 5.13.4.

<sup>41</sup> Additional use restrictions for the ORL district are listed in Section 5.13.5.

<sup>42</sup> Adult Foster Care category was added for compliance with the Zoning Enabling Act.

<sup>43</sup> From ORD-10-34-Ch.55.

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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE						NON-RESIDENTIAL AND SPECIAL PURPOSE					USE-SPECIFIC STANDARDS							
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>39</sup>	C3	R5	P	PL	RE <sup>40</sup>	ORL <sup>41</sup>	M1	M1A	M2	5.15
Guest House <sup>45</sup>									P	P	P	P	P		P	P	P	P	P	P	P	P										5.16.1.A;5.16.1.F	
<b>PUBLIC/ INSTITUTIONAL</b>																																<b>5.16.2</b>	
Community and Cultural																																	
Cemetery	P																																
Club Headquarters or Community Center <sup>46</sup>							E		E	E	E	E	E		E	P	P	P	P	P	P	P	P									5.16.2.C	
Conference Center <sup>47</sup>																				E							E						
Correctional Facility <sup>48</sup>																											P						
Museum, Art Gallery <sup>49</sup>																					P	P	P	P			P						
Funeral Services <sup>50</sup>																P	P	P	P	P	P	P	P						P	P	P	5.16.2.D	
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	P	P	P	P				P			P	P		
Park, Recreation and Open Space <sup>51</sup>																											P						5.16.2.H

<sup>44</sup> New use that consolidates the existing “Boarding House” and “Rooming House” uses.  
<sup>45</sup> New use to implement Ord. 10-32  
<sup>46</sup> This use merges the three current uses of “Club Headquarters,” “Community Center,” and “Social & Service Club.”  
<sup>47</sup> Merged with “Place of Assembly.”  
<sup>48</sup> New use that has the same use standards as “Child Care Center.”  
<sup>49</sup> Merged with “Museum.”  
<sup>50</sup> Merged with “Funeral Home.”

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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE						NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>39</sup>	C3	R5	P	PL	RE <sup>40</sup>	ORL <sup>41</sup>	M1	M1A	M2	5.15	
Religious Assembly <sup>52</sup>	P	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	P	P	P	P	P	P	P	P										
<b>Day Care</b>																																		
Adult Day Care Center <sup>53</sup>		E	E	E	E	E	E	E	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							E	P	P	P	5.16.2.A
Child Care Center <sup>54</sup>		E	E	E	E	E	E	E	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						E	P	P	P	5.16.2.B	
<b>Educational</b>																																		
Institutions of Higher Learning, Private <sup>55</sup>		E	E	E	E	E	E	E	E	E	E	E	E	E		P	P	P	P	P	P	P	P							P	P	P	5.16.2.F	
Institutions of Higher Learning, Public <sup>56</sup>	P	P	P	P	P	P	P	P	P	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	E	E	E	E	E	E	E		E	P	P	P	P	P	P	P											
School, Public	P	P	P	P	P	E	P	P	P	P	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		

<sup>51</sup> Language in current code is “Developed open space, such as: arboreta, botanical and zoological gardens.”  
<sup>52</sup> Church merged with “Religious Assembly.”  
<sup>53</sup> New use but reflects existing practice.  
<sup>54</sup> Merged with “Child Care Center/Nursery Care/Day Care Center/Nursery School  
<sup>55</sup> Language from current code is “Private colleges, universities, and other institutions of higher learning, offering courses in general, technical or religious education.”  
<sup>56</sup> This use added for clarity and based on “Institutions of Higher Learning, Private.”



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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS						
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>30</sup>	C3	R5	P	PL	RE <sup>30</sup>	ORL <sup>41</sup>	M1	M1A	M2	5.15	
<b>Health Care</b>																																		
Hospital										E	E	E	E	E													P							5.16.2.E
Nursing Care Facility <sup>57</sup>									P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					P	P	P	5.16.2.G	
<b>COMMERCIAL</b>																																		5.16.3
<b>Lodging</b>																																		
Bed and Breakfast																					P	P	P	P	P									
Hotel <sup>58</sup>																P	P	P	P	P	P	P	P	P	P								5.16.3.F	
<b>Recreation, Entertainment, and Arts</b>																																		
Adult Entertainment Business																														P		P		5.16.3.A
Artist Studio																P	P	P	P	P	P	P	P	P						P	P	P	5.16.3.B	
General Entertainment <sup>59</sup>																	P	P	P	P	P	E	P	P									5.16.3.D	
Indoor Recreation <sup>60</sup>																E	P	P	P	P	P	P	P	P			P	E		E	E	E	5.16.3.F	
Outdoor Recreation <sup>61</sup>	P	E	E	E	E	E	E	E	E	E	E	E	E	E									P	P			P <sup>62</sup>							5.16.3.I

<sup>57</sup> This use merges “Convalescent/Nursing Home/Homes for the Elderly”, “Convalescent/Nursing Homes”, and “Public Service Institutions.”  
<sup>58</sup> Merged with “Hotels/Motels.”  
<sup>59</sup> Includes a broad spectrum of generally non-sporting entertainment uses, such as Theatres, music, dancing, arcades, Pinball Parlor, etc.  
<sup>60</sup> This is a new use that merges a broad spectrum of indoor uses, including “Court Game Facilities, Indoor.”  
<sup>61</sup> Merges a broad spectrum of outdoor uses, such as “Golf Course,” “Swimming Club, Private,” and “Park/ Athletic Field.” Language in current code for C2a and C3 Districts is “Outdoor Recreation, such as: miniature golf, golf driving ranges, commercial swimming pools, outdoor theaters and canoe liveries.”  
<sup>62</sup> Language in current code is “Outdoor public Recreational uses, such as: playgrounds, playfields, golf courses, boating areas, fishing sites, camping sites, parkways, and parks.”



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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>30</sup>	C3	R5	P	PL	RE <sup>30</sup>	ORL <sup>31</sup>	M1	M1A	M2	5.15		
<b>Services and Repair</b>																																			
Automobile, Truck, Construction Equipment Repair <sup>66</sup>																					E	E	P	P							P	P	P	5.16.3.C	
Contractors, General Construction, and Residential Building																						P	P	P							P	P	P		
Laundry, Cleaning, and Garment Services																	P	P	P	P	P	P	P	P							P	P	P		
Parking Lot or Structure <sup>67</sup>																					E	E					P	P						5.16.3.K	
Personal Services																P	P	P	P	P	P	P	P <sup>68</sup>	P										5.16.3.L	
Vehicle Wash																					E	E	P	P											
Veterinary, Kennel, and Animal Boarding <sup>69</sup>																E	E	E	E	E	P	P	P	P						P	P	P	5.16.3.O		

<sup>66</sup> Merged with “Vehicle Repair, Storage.”

<sup>67</sup> Merges “Parking Lot - Principal Use” and “Parking Structure.” Current language for P district is “Off-street parking, including private and community garages, in accordance with the requirements of Chapter 59).

<sup>68</sup> Language of current code is “Business and personal service which are performed within an enclosed building, including duplicating, hairdressing, blueprinting, printing, photographic reproduction and film processing.”

<sup>69</sup> Merges “Veterinary Hospitals and Kennels.”

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USE CATEGORY AND TYPE	RESIDENTIAL																MIXED USE							NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS					
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>39</sup>	C3	R5	P	PL	RE <sup>40</sup>	ORL <sup>41</sup>	M1	M1A	M2	5.15		
<b>OFFICE AND RESEARCH</b>																																		5.16.4	
<b>Office-Type</b>																																			
Bank, Credit Union, Financial Services																P	P	P	P	P	P	P	P	P											
Office, General <sup>70</sup>																P	P	P	P	P	P	P	P				P	P						5.16.4.C	
Medical/Dental																P	P	P	P	P	P	P	P											5.16.4.C	
Nonprofit Corporations <sup>71</sup>		E	E	E	E	E	E	E	E	E	E	E	E	E		P	P	P	P	P	P	P	P				P	P						5.16.4.B	
<b>Research and Development</b>																																			
Laboratories																												P	P	P	P	P			5.16.4.A
Medical Laboratory																				P	P						P	P	P	P	P				
Research/Development																											P	P	P	P	P				
<b>TRANSPORTATION</b>																																			
Railroad and Public Transportation Rights-of-Way <sup>72</sup>																					P	P	P	P			P			P	P	P			
Transit Center, Station, or Depot																					P	P	P	P			P			P	P	P			
Transportation Facilities <sup>73</sup>																											P								

<sup>70</sup> Merges "General/Business."

<sup>71</sup> New use based on "Office" use.

<sup>72</sup> Formerly "Railroad."

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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE						NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>39</sup>	C3	R5	P	PL	RE <sup>40</sup>	ORL <sup>41</sup>	M1	M1A	M2	5.15	
<b>INDUSTRIAL</b>																																	5.16.5	
<b>Agricultural</b>																																		
Agriculture/Greenhouse	P																																	
Barns	P																																	
Borrow Pits	E																																	
Medical Marijuana Cultivation Facility <sup>74</sup>																P	P	P	P					P			P	P	P	P	P	5.16.3.H		
<b>Manufacturing, Processing, Assembly, and Fabrication</b>																																		
Asphalt, Concrete Mixing Plant, Sand and Gravel Pit <sup>75</sup>																																E		
Coal and Coke Dealer <sup>76</sup>																															P			
Heavy Manufacturing <sup>77</sup>																															P		5.16.5.A	
Laundry and Dry Cleaning Plant <sup>78</sup>																													P	P	P			
Light Manufacturing <sup>79</sup>																											P	P	P				5.16.5.B	

<sup>73</sup> Replaces “municipal airports” in the PL district per Ord. 10-17.

<sup>74</sup> New use added by Ord.10-37.

<sup>75</sup> Merges “Scrap and waste material, asphalt and concrete mixing plants, sand and gravel pits, slaughterhouse.”

<sup>76</sup> New use taken from “General construction contractors such as highway and street, heavy construction and general buildings; Coal and Coke Dealers.”

<sup>77</sup> This is a new use based on the allowed uses in the current M2 Heavy Industrial District (Sec. 5:10.26(2)(e)).

<sup>78</sup> Formerly laundry, cleaning, and garment services.

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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE						NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>79</sup>	D1	D2	C2B <sup>80</sup>	C3	R5	P	PL	RE <sup>80</sup>	ORL <sup>81</sup>	M1	M1A	M2	5.15	
Oil and Gas Well																																		5.16.5.C
Pilot Manufacturing																												P	P	P	P	P		
Scrap and Waste Material <sup>80</sup>																																	E	
Slaughterhouse <sup>81</sup>																																	E	
<b>Utilities and Communications</b>																																		
Broadcasting Facility																					P	P	P	P							P	P	P	
Data Processing and Computer Centers <sup>82</sup>																P	P	P	P	P	P	P	P					P	P	P	P	P		
Electric, Gas, and Sanitary Services <sup>83</sup>																															P	P	P	
Power and Fuel Rights-of-Way <sup>84</sup>																																	P	
Wireless Communication Facilities	P															P	P			E	E	E	P	P	E		P	P	P	P	P	P	5.16.5.D	

<sup>79</sup> This is a new use based on the allowed uses in the current M1 Limited Industrial District (Sec. 5:10.24(2)(e)).  
<sup>80</sup> New use taken from “Scrap and waste material, Asphalt and Concrete Mixing Plants, sand and gravel pits, slaughterhouse.”  
<sup>81</sup> New use taken from “Scrap and waste material, Asphalt and Concrete Mixing Plants, sand and gravel pits, slaughterhouse.”  
<sup>82</sup> Use merges multiple existing uses; language of current code for ORL is “Data Processing and Computer Centers including computer programming and software development, training, and services and maintenance of electronic data processing equipment.”  
<sup>83</sup> Formerly “Transportation, communications, electric, gas and sanitary services.”  
<sup>84</sup> Formerly “Transportation, communications, Power and Fuel Rights-of-Way.”



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USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS					
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>38</sup>	D1	D2	C2B <sup>39</sup>	C3	R5	P	PL	RE <sup>40</sup>	ORL <sup>41</sup>	M1	M1A	M2	5.15
Family Day Care Home	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									5.16.6.A;5.16.6.F;
Group Day Care Home	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									5.16.6.A;5.16.6.G;
Home Occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									5.16.6.A;5.16.6.H;	
Incidental Services															A									A				A				5.16.6.A;5.16.6.I;	
Management/Maintenance Office and Storage <sup>92</sup>									A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				A	A	A			5.16.6.A;	
Medical Marijuana Home Occupation <sup>93</sup>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									5.16.3.H	
Medical Marijuana Use or Cultivation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									5.16.3.H	
Office, Administrative/Executive <sup>94</sup>																											A			A	A	A	5.16.6.A;
Outdoor Display and Vending Machines <sup>95</sup>																	A	A	A	A	A	A	A	A									5.16.6.A;5.16.6.J;
Outdoor Sales, Seasonal <sup>96</sup>															A	A	A	A	A	A	A	A	A									5.16.6.A;5.16.6.K;	
Parking Attendant Building <sup>97</sup>																									A								5.16.6.A;

<sup>91</sup> Formerly “Dwelling Unit.”

<sup>92</sup> Formerly “Storage/maintenance building, enclosed.”

<sup>93</sup> New use added by Ord.10-37.

<sup>94</sup> Formerly “Office, executive and administrative” and relocated from Principal Use category to Accessory Use category.

<sup>95</sup> This is a new Accessory Use.

<sup>96</sup> This is a new Accessory Use.

<sup>97</sup> Formerly “Shelter building for attendants.”



**TABLE 5-15: PERMITTED USE TABLE**

P= PERMITTED      E = SPECIAL EXCEPTION      A= PERMITTED ACCESSORY USE      BLANK CELL = PROHIBITED

NOTE: ALL PROPERTIES IN OVERLAY DISTRICTS ARE SUBJECT TO THE ADDITIONAL USE REGULATIONS IN SEC. 5-13  
 NOTE: ALL PROPERTIES ARE SUBJECT TO THE ADDITIONAL STANDARDS INDICATED FOR THAT USE IN THE RIGHT COLUMN  
 NOTE: SPECIFIC USES IN THE C1A/R, RE, AND ORL DISTRICTS ARE SUBJECT TO ADDITIONAL STANDARDS FOUND IN SECTIONS 5.11.6, 5.12.4, AND 5.12.5 RESPECTIVELY

USE CATEGORY AND TYPE	RESIDENTIAL														MIXED USE							NON-RESIDENTIAL AND SPECIAL PURPOSE						USE-SPECIFIC STANDARDS							
	AG	R1A	R1B	R1C	R1D	R1E	R2A	R2B	R3	R4A	R4B	R4C	R4D	R4E	R6	O	C1	C1A	C1B	C1A/R <sup>98</sup>	D1	D2	C2B <sup>99</sup>	C3	R5	P	PL	RE <sup>100</sup>	ORL <sup>101</sup>	M1	M1A	M2	5.15		
Restaurant, Bar, Food Service																									A									5.16.6.A;5.16.6.L;	
Retail Sales, General Merchandise																														A	A	A	A		5.16.6.A;5.16.6.M ;
Roadside Stand	A																																	5.16.6.A	
Wireless Communication Antenna <sup>98</sup>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.16.6.A; 5.16.6.N	
<b>TEMPORARY USES</b>																																		<b>5.16.7</b>	
Christmas Tree Sales <sup>99</sup>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P										5.16.7.A	
Outdoor Sales, Temporary by Others <sup>100</sup>																	E	E	E	E	E	E	E	E										5.16.7.B	
Special Event Sales <sup>101</sup>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.16.7.C	

<sup>98</sup> Added to clarify that antennas without towers are currently allowed as an Accessory Use, and are not subject to placement, setback, etc. standards applicable to towers.  
<sup>99</sup> New temporary use, because this activity is referred to in the text of the current code.  
<sup>100</sup> Formerly “Temporary Outdoor Sales.”  
<sup>101</sup> New temporary use, because this activity is referred to in the text of the current code.

## 5.16. Use Specific Standards<sup>102</sup>

### 5.16.1. Residential Uses

#### A. Residential Occupancy<sup>103</sup>

##### 1. Purpose

This section is intended to reasonably regulate the number of persons who can live in a residential Dwelling Unit. The City finds that occupancy limits are needed to provide density control; preserve and enhance residential neighborhoods as stable, quiet places for citizens to live and raise children; protect safety and welfare; and maintain property values. Such limits are also needed to ensure that there are adequate public and private facilities including adequate off-street parking, utilities, and adequate lot size to accommodate the residents of each Dwelling Unit without impairing the character of the neighborhood. The City also finds there are a number of residential living arrangements other than the traditional biological Family arrangement. This section is intended also to accommodate those alternative living arrangements.

##### 2. Limits on Occupancy of Dwelling Unit

A Dwelling Unit may be occupied by one of the following Family living arrangements:

- a. One or more persons related by blood, marriage, adoption or guardianship living as a single Housekeeping Unit, in all districts.
- b. A maximum of four persons plus their Offspring living as a single Housekeeping Unit, in all districts.
- c. A maximum of six persons living as a single Housekeeping Unit in multiple-family and mixed-use districts only.<sup>104</sup>
- d. A Functional Family living as a single Housekeeping Unit which has received a Special Exception Use permit pursuant to Section 5.29.6.

##### 3. Additional Standards for Functional Family

In addition to meeting the definition in Article XIII of this Chapter and the special exceptions use standards of section 5.29.6, a permit for a Functional Family is subject to the following standards and regulations:

##### a. Required Parking

Two off-street Parking Spaces must be provided. Additional Parking Spaces may be required by the Planning Commission if any of the following conditions are met:

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<sup>102</sup> As staff consolidated the names of very similar uses, they also consolidated similar use-specific standards that city staff have interpreted as the same standards. The standards reflects staff's reading of the use specific standards in the current zoning ordinance.

<sup>103</sup> Text from sec. 5:7, except that provisions (3) and (4) were relocated to Article VIII Definitions. Headings have been added for clarity.

<sup>104</sup> Revised for clarity and to reflect current practice. Current code lists only the R4 district.

- i) The property is located more than 300 feet from a bus stop.
- ii) Street parking available for visitor parking is limited.
- iii) The applicant intends to park more than 2 vehicles regularly on the site and there is limited area available for tandem parking in a driveway.

**b. Parking Plan**

In order for the Planning Commission to determine if adequate parking will be provided, the applicant must submit a plan indicating the location of proposed off-street parking and an analysis of public parking and transit facilities provided within a 300-foot radius of the parcel.

**c. Deferment of Required Parking**

The Planning Commission may defer the provision of up to 40% of the required spaces if shown on the approved plan for the permit. If the building official determines that some or all of the deferred Parking Spaces are needed, these spaces must be installed. Any person aggrieved by the building official's determination may appeal as provided in section 5.28.10.

**d. Limited to Approved Functional Family Type**

The permit shall apply only to the Functional Family type which obtained the permit and shall be limited to the number of persons specified in the permit.

**e. Contact Person**

There is a contact person who will act as head of household in relating to the City.

**4. Variance for Handicapped Person**

The Zoning Board of Appeals may grant a variance from the standards of this section if it is reasonably necessary to give a handicapped person (as defined in 42 USC Section 3602) equal opportunity to use and enjoy a dwelling.

**5. Exceptions**

The occupancy limits of this section do not apply to Group Housing, Fraternity or Sorority Houses, student cooperatives, Emergency Shelters, or convalescent homes.<sup>105</sup>

**B. Dwelling, Single-Family**

**1. R1E District**

Single-family dwellings in the R1E district shall not exceed 2,000 square feet of Floor area.<sup>106</sup>

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<sup>105</sup> Revised wording to reflect new use titles.

<sup>106</sup> Requirement added by ORD-10-34 approved Jan. 3, 2011.

## **2. All Zoning Districts**

No person shall park or permit the parking of a House Trailer for occupancy on any private property within the city, except in an authorized trailer camp licensed under the provisions of Act 143, Public Acts of 1939, State of Michigan, as amended.

## **C. Dwelling, Multi-Family**

### **1. RE District<sup>107</sup>**

Multi-family dwellings are subject to all the applicable regulations for multi-family dwellings in the R4B district, in accordance with Table 5.17-3.

## **D. Fraternities, Sororities, and Student Cooperatives**

### **1. R2B and Multiple-Family Zone Districts**

In addition to the Special Exception Use standards in section 5.29.6.D, the following standards apply:

- a. A resident manager shall be employed or appointed. For purposes of this section, a resident manager is one who lives on-site, serving in a regular or full-time capacity.
- b. A minimum lot size of 8,500 square feet subject to a minimum of 350 square feet of lot area per occupant shall be provided.
- c. The Floor area of the Structure shall exceed 5,000 square feet of usable Floor area. Single or two-family Structures containing 5,000 square feet or less on April 9, 1984 may not be converted to fraternities, sororities or student cooperatives.
- d. A fraternity, sorority or student cooperative adjacent to a single or two-family Structure shall have a hedge, berm, Fence or wall, forming a continuous screen at least 6 feet high between it and the residential units, to be located adjacent to the Lot Line from the front of the Structure to the rear property line, except in required Front Open Space and where restricted by other ordinance provisions. Screening which continues into the required shall be consistent with section 5.26 Fences.
- e. Density increases and other modifications to existing fraternities, sororities and student cooperatives may be allowed pursuant to section 5.29.6.G except as provided in f. below.
- f. Kitchen facilities, common areas for meeting and social space, or handicap accessibility may be expanded by 10% of the Floor area or 1,000 square feet, whichever is less, without securing or modifying a Special Exception Use permit if current parking ordinance standards for fraternities, sororities and student cooperatives are met.

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<sup>107</sup> Text per ORD-10-34-Ch.55.

**E. Group Housing<sup>108</sup>****1. R2B and R4A Districts**

In addition to the Special Exception Use standards in section 5.29.6.D, the following standards apply:

- a. A resident manager must be employed or appointed if the owner does not reside at the house.
- b. The Floor area of the Structure must exceed 5,000 square feet.
- c. Common kitchen facilities, including a dining area or room, must be provided within the house.

**F. Guest House**

1. A minimum of 400 square feet of lot area per occupant shall be provided.<sup>109</sup>

**5.16.2. Public/Institutional Uses****A. Adult Day Care Center****1. Single-Family and Two-Family Residential Zone Districts**

In addition to the Special Exception Use standards in section 5.29.6.D, the following standards apply:

- a. The parcel must have a minimum of 7,500 square feet of lot area.
- b. One off-street Parking Space for each care giver required to staff the facility at its state licensed capacity must be provided.
- c. Adequate off-street or on-street Parking Spaces available for drop off and pick up use within 250 feet of the Adult Day Care Center parcel must be provided on the site plan. The number of drop-off and pick-up spaces shall be 2 plus 1 additional space for each 20 adults that the facility is licensed to care for.
- d. Occupancy may not be increased without amending a previously approved Special Exception Use permit.

**B. Child Care Center****1. All Single-Family and Two-Family Residential Zone Districts**

In addition to the Special Exception Use standards in section 5.29.6.D, the following standards apply:

- a. The parcel must have a minimum of 7,500 square feet of lot area.
- b. One off-street Parking Space for each care giver required to staff the facility at its state licensed capacity must be provided.
- c. Adequate off-street or on-street Parking Spaces available for drop off and pick up use within 250 feet of the Child Care Center parcel must be

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<sup>108</sup> Revised to match new use title.

<sup>109</sup> Added by Ord-10-32.

provided on the site plan. The number of drop-off and pick-up spaces shall be 2 plus 1 additional space for each 20 children that the facility is licensed to care for.

- d. Occupancy may not be increased without amending a previously approved Special Exception Use permit.

### **C. Club Headquarters or Community Center**

#### **1. R2B and Multiple-Family Zone Districts**

In addition to the Special Exception Use standards in section 5.29.6.D, the following standards shall apply:

- a. To be used only by members and guests.
- b. Lodging is not permitted.
- c. The service of meals, except as necessary for club activities, is prohibited.

### **D. Funeral Services**

#### **1. C1 District**

Each use shall occupy a total Floor area of not more than 8,000 square feet.

### **E. Hospital**

#### **1. R4B, R4C, R4D, R4E Districts**

In addition to the Special Exception Use standards in section 5.29.6.D, the following standards apply:

- a. Minimum 1,500 square feet lot area per bed.

### **F. Institutions of Higher Learning, Private**

#### **1. All Residential Zone Districts**

In addition to the Special Exception Use standards in section 5.29.6.D, the following standards apply:

- a. The lot must contain at least 20 acres.
- b. No Building or other use of land except landscaped areas shall be situated within 100 feet of any adjacent residential property.

#### **2. C1 District**

- a. Each use shall occupy a total gross Floor area of not more than 8,000 square feet.

### **G. Nursing Care Facility**

#### **1. R4A, R4B, R4C, R4C/D, R4D Multiple-Family, O, R5 Districts**

- a. At least 400 square feet of lot area per occupant must be provided.
- b. This use also includes Guest Houses for relatives of hospital patients.

**2. C1 District**

- a. At least 400 square feet of lot area per occupant must be provided, and each use shall occupy a total Floor area of not more than 8,000 square feet.

**H. Park, Recreation, and Open Space**

1. No Structure shall be erected or maintained upon dedicated park land that is not customarily incidental to the Principal Use of the land.

**5.16.3. Commercial Uses****A. Adult Entertainment Business<sup>110</sup>****1. Locations of Adult Entertainment Businesses**

An adult entertainment Business may be located only in accordance with the following restrictions:

- a. No such Business shall be located on a lot within 700 feet of (i) any residential zone district, or (ii) a Planned Unit Developments with residential uses, or (iii) land zoned residential in a township.
- b. No such Business shall be established within 700 feet of another adult entertainment Business.

**2. Use Regulations**

- a. No person shall reside in or permit any person to reside in the Premises of an adult entertainment Business.
- b. No person shall operate an Adult Personal Service Business unless there is conspicuously posted in each room where such Business is carried on a notice indicating the prices for all services performed by said Business. No person operating or working at such a place of Business shall solicit or accept any fees except those indicated on any such notice.
- c. No person operating an adult entertainment Business shall permit it to be used for acts of prostitution or to be frequented by known prostitutes who have been convicted of the act of prostitution within the last 24 months and any customers convicted of being customers of prostitutes within the last 24 months.
- d. No person shall operate an Adult Personal Service Business without obtaining a current code compliance license. Such licenses shall be issued by the City Administrator or the Administrator's designee following an inspection to determine compliance with the Code of the City of Ann Arbor and upon payment of a license fee of \$100.00. Such a license shall be subject to the regulations contained in Chapter 76 of Title VII of this Code.

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<sup>110</sup> Standards carried forward from Section 5:50.

- e. No person operating an adult entertainment Business shall permit any person under the age of 18 to be on the Premises of said Business either an as employee or customer.
- f. No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult entertainment Business without the express written permission of the owner of the property for such use.
- g. No lessee or sublessee of any property shall convert that property from any other use to an adult entertainment Business without the express written permission of the owner of the property for such use.

## **B. Artist Studio**

### **1. O District**

- a. No more than 25 percent of the total Floor area of the studio shall be used for the display and sale of articles that are produced in the studio.

### **2. C1 District**

- a. Permitted provided each such use occupies a total gross Floor area of not more than 8,000 square feet.

## **C. Automobile, Truck, Construction Equipment Repair**

### **1. C2B District**

- a. Storage and Repair of Automobiles, Trucks and Construction Equipment must be located in an enclosed Building.<sup>111</sup>

## **D. General Entertainment**

### **1. C1 District**

- a. Each permitted use must occupy a total gross Floor area of not more than 8,000 square feet.

### **2. Theaters, Enclosed**

- a. C1B District
  - i) The total seating capacity of the use shall not exceed 600 seats.

### **3. Pinball Parlor**

- a. Allowed only in the C1A District.

## **E. Fueling Station**

- a. Gasoline or service stations shall employ berms or 30 inch high opaque walls between the Vehicular Use Area and the Public Right-of-Way unless the landscape buffer strip provided is 15 feet in width or greater. If the landscape buffer strip provided is 15 feet in width, then a landform berm, hedge and/or dense planting combination at least 30 inches in

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<sup>111</sup> Enclosed building requirement has been added.



total height is acceptable. If a wall is used, it shall be set back at least 4 feet from the property line with one 30inch high shrub provided for every 4 lineal feet, planted on the street side of the wall. The site design, planting scheme, and materials used in these areas shall comply with the requirements set forth in this Chapter.<sup>112</sup>

## **F. Hotel**

### **1. C1 District**

No use shall contain more than 8,000 square feet of Floor area.

## **G. Indoor Recreation**

### **1. C1 District**

- a. Special Exception Use approval pursuant to section 5.29.6 shall be required when adjacent to any R district.
- b. No use shall contain more than 8,000 square feet of Floor area.

### **2. C1A, C1A/R, C1B Districts**

- a. Special Exception Use approval pursuant to section 5.29.6 shall be required when adjacent to any R district.

## **H. Medical Marijuana<sup>113</sup>**

### **1. Intent**

- a. 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.* This is a unique land use with ramifications not addressed by more traditional zoning district and Home Occupation regulations. Although some specific uses of Marijuana are allowed by the Michigan Medical Marihuana Act, Marijuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense Marijuana.
- b. 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 Act (“MMMA”), MCL 333.26421 *et seq.*, shall have the same meanings in this Code.

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<sup>112</sup> Added in Ord. 11-09.

<sup>113</sup> From Ord. 10-37.

Article VIII of this Chapter contains some words and phrases that are defined in the MMMA, but if any definition in Article VIII conflicts with the definition in the MMMA, then the definition in the MMMA shall apply.

### **3. Locations**

A Medical Marijuana Dispensary or Medical Marijuana Cultivation Facility may be located in the City only in accordance with the following restrictions:

- a. Medical Marijuana dispensaries only be located in those districts shown in Table 5-15 or in PUD districts where retail is permitted in the Supplemental Regulations.
- b. Medical Marijuana cultivation facilities shall only be located in those districts shown in Table 5-15.
- c. In C districts, Buildings used for medical Marijuana dispensaries or medical Marijuana cultivation facilities shall meet the minimum parking requirements of section 5.19 for retail uses, with no exceptions for existing nonconforming parking.
- d. No Medical Marijuana Dispensary or Medical Marijuana Cultivation Facility shall be located within 1,000 feet of a parcel on which a public or private elementary or secondary school is located.

### **4. Standards for Medical Marijuana Dispensaries and Cultivation Facilities**

- a. No person shall reside in or permit any person to reside in a Medical Marijuana Dispensary or Medical Marijuana Cultivation Facility, except as allowed in the M1 and M2 zoning districts.
- b. No one under the age of 18 shall be allowed to enter a Medical Marijuana Dispensary or Medical Marijuana Cultivation Facility unless accompanied by a parent or guardian.
- c. No smoking, inhalation, or consumption of Marijuana shall take place on the Premises.
- d. In M1 and M2 districts, Retail Sales of products customarily incidental to the Principal Use shall be allowed provided that the total amount of internal Floor area of the Structure devoted to sales and display of such products does not exceed 10 percent of the Floor area of the total establishment.
- e. Drive-in medical Marijuana dispensaries shall be prohibited.
- f. All activities of a Medical Marijuana Dispensary or Medical Marijuana Cultivation Facility shall be conducted indoors.
- g. No equipment or process shall be used in any Medical Marijuana Dispensary or Medical Marijuana Cultivation Facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
- h. A zoning compliance permit shall be required consistent with section 5.29.1.

- i. No more than 72 Marijuana plants shall be grown on the Premises of any Medical Marijuana Cultivation Facility.
- j. Medical Marijuana dispensaries and medical Marijuana cultivation facilities shall comply with all other regulations of the zoning district in which the Medical Marijuana Dispensary or Medical Marijuana Cultivation Facility is located, except when they are in conflict, in which case this section 5.16.3.H shall prevail.
- k. Medical Marijuana dispensaries and medical Marijuana cultivation facilities shall be operated in compliance with the MMMA.

#### **5. Standards for Medical Marijuana Home Occupations**

- a. Cultivation or other Medical Use of Marijuana as a Medical Marijuana Home Occupation in single-family dwellings.
  - i) Medical Marijuana Home Occupations are not permitted in multiple-family dwellings and other non-single Family dwellings.
  - ii) 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.
  - iii) All other performance standards for home occupations as provided in section 5.16.6.H shall be required.
  - iv) A zoning compliance permit shall be required, consistent with section 5.29.1.

#### **6. Standards for Medical Marijuana Use or Cultivation<sup>114</sup>**

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.

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<sup>114</sup> Added per Ord. 10-37.

## I. Outdoor Recreation

### 1. All Residential zoning districts

The only outdoor recreation use allowed in Residential District is a private swimming clubs, which is subject to the following standards. For purposes of this section, an accessory recreational facility is defined as an outdoor playground, volleyball, basketball or tennis court, or other similar recreational facility where equipment is permanently installed. In addition to the Special Exception Use standards in section 5.29.6.D, the following standards apply:

- a. Membership shall be open to residents of the subdivision or residential Development in which the pool is located.
- b. A private swimming club established prior to and continuing in use on August 1, 2000, and that is located in a district in which it is permitted under the terms of this ordinance shall be deemed a conforming use without further action, application or review.
- c. Where one or more modifications of a private swimming club, described in subsection a., above, is desired, the requirements of this section and section \_\_\_\_\_ shall apply.
- d. Any permanent addition, other than a Fence, to an existing club Building, accessory recreational facility, or outdoor swimming pool, pool deck, or spa, or the construction of a new club, club Building, accessory recreational facility, or outdoor swimming pool, pool deck, or spa shall constitute a modification of the use which requires Special Exception Use approval.
- e. For purposes of this section, any new accessory recreational facility or permanent addition to an existing accessory recreational facility at a private swimming club will require a plot plan showing the existing and proposed Structures and improvements on the site, instead of a site plan, as part of the Special Exception Use application.
- f. A landscape buffer shall be provided to screen outdoor swimming pools, pool decks, spas, and accessory recreational facilities from adjacent residential properties. The landscape buffer shall consist of:
  - i) A landscaped strip at least 15 feet wide; and
  - ii) One tree for each 20 feet or fraction of 20 feet of abutting land; at least 50 percent of the trees within a conflicting land use buffer shall be evergreen; arrangement of trees in clusters or groupings is encouraged, but trees shall not be spaced more than 50 feet apart; and
  - iii) A hedge, berm, wall, Fence or combination thereof forming a continuous screen at least 4 feet high.

The Planning Commission may establish greater or lesser buffer or screening materials for the recreational activity based on specifics of the parcel and the surrounding land uses.

- g. The required parking shall be one space per 200 square feet of usable Floor area of the club Building.

**2. C1, C1A, C1A/R, C1B Districts**

- a. Special Exception Use approval pursuant to section 5.29.6 shall be required when adjacent to any Residential District.

**3. Outdoor Theatre**

- a. Special Exception Use approval pursuant to section 5.29.6 is required in all districts.

**J. Outdoor Sales, Permanent**

Only permitted if the sales or display is in an area specifically designated for outdoor sales and display as shown on an approved site plan.

**K. Parking Lot or Structure**

**1. D1 and D2 Districts**

- a. In the D1 district, an off-street parking Structure is not permitted at the level of the adjacent street unless separated from the street by a portion of the Building that is occupied by a permitted use or uses, with the exception of the portion of a parking Structure that provides vehicular or pedestrian access to the street. The permitted use(s) shall be located within the Building and have a minimum depth of 25 feet from the exterior of the front wall.
  - i) On corner lots, this requirement shall apply to lot frontages on primary streets, as defined in section 5.14.1.E.1.a. If none of the Street Frontages is a primary street, an off-street parking Structure must be separated from at least one Street Frontage by a portion of the Building that is occupied by a permitted use, with the exception of the portion of a parking Structure that provides access to the street.
- b. In the D2 district, an off-street parking Structure shall be located a minimum of 10 feet from the Front Lot Line at the level of the adjacent street and provide a landscape buffer or screening wall between the Building and the front property line.
- c. In the D1 and D2 districts, any wall of an off-street parking Structure that abuts a residential zoning district shall contain no Openings or be separated from the Lot Line by a Building occupied by a permitted use or uses.

**L. Personal Services****1. C1 Districts**

- a. Each use shall occupy a total gross Floor area of not more than 8,000 square feet.

**2. C1A, C1A/R, C1B Districts**

- a. Special Exception Use approval pursuant to section 5.29.6 shall be required when adjacent to any Residential District.

**3. O District**

- a. The only permitted personal service are beauty salons providing beauty treatments such as hair cutting, coloring and styling; hair removal; manicure; pedicure; skin care; and therapeutic massage. Incidental Sales of products used in the salon shall occupy no more than 25 percent of the total Floor area.

**M. Restaurant, Bar, Food Service****1. C1 District**

- a. Each Restaurant, Bar and Food Service use shall have a maximum seating capacity of 50 seats.

**N. Retail Sales, General Merchandise****1. C1 District**

- a. Each use shall occupy a total gross Floor area of not more than 8,000 square feet.

**O. Veterinary, Kennel, and Animal Boarding<sup>115</sup>****1. C1 District**

- a. Each use shall occupy a total gross Floor area of not more than 8,000 square feet.

**2. All Districts Where Permitted**

- a. All facilities must be completely enclosed in a sound proof Building in such a way as to produce no objectionable noises or odors at the Lot Lines.

**5.16.4. Office/Research Uses****A. Laboratories****1. RE District**

- a. Permitted for the research, development, and testing of, including but not limited to medical, optical, dental, and pharmaceutical products.

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<sup>115</sup> From current section 5:10.12.

**2. ORL District**

- a. Permitted for the research, development, and testing of medical, optical, dental, and pharmaceutical products.

**B. Nonprofit Corporations**

**1. All Residential Zone Districts**

- a. Office of non-profit corporations in Buildings constructed prior to January 1, 1988, subject to the following standards:
  - 1. The parcel must have a minimum of 80,000 square feet of lot area.
  - 2. The Building must contain a minimum of 3,000 square feet of usable Floor area, excluding basements or cellars, constructed prior to January 1, 1988.
  - 3. There shall be no more than 1 employee for each 300 square feet of usable Floor area, constructed prior to January 1, 1988, excluding basements or cellars.
  - 4. Off-street parking in the amount of 1 space for each 300 square feet of usable Floor area, constructed prior to January 1, 1988, excluding basements or cellars, shall be provided in accordance with the standards of section 5.18.
  - 5. Signage shall be limited to one identification sign of no greater than 25 square feet in accordance with the provisions of section 5.24.
  - 6. One Dwelling Unit within the existing Structure may be approved as part of this Special Exception Use approval.
  - 7. The use will result in preservation of Open Space and/or historic sites or Structures.
  - 8. The nature of the use will not be of such intensity as to disrupt the peaceful enjoyment of the neighborhood, specifically the use shall not generate more than 20 office-related vehicle trips (excluding employee related trips) in any 1 day from the site.
  - 9. No Building or other use of land except landscaped areas shall be situated within 30 feet of any adjacent residential property.

**2. C1 District**

- a. Each use shall occupy a total gross Floor area of not more than 8,000 square feet.

**C. Office, General and Medical/Dental**

**1. C1 District**

- a. Each use shall occupy a total gross Floor area of not more than 8,000 square feet.

**2. RE District**

- a. Limited to: executive, administrative, and professional, including engineering and engineering sales; medical and Dental Offices are not permitted.

**3. ORL District**

- a. Limited to executive, administrative, professional, accounting, writing, clerical, drafting, sales, and engineering Offices; medical and Dental Offices are not permitted. Office

**5.16.5. Industrial****A. Heavy Manufacturing**

1. Limited to any other manufacturing plants and uses having performance characteristics similar to those listed for the M-2 District in Table 5-15 in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation and odor.
2. Shall be so designed, constructed and operated that there is no production of sound discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat or glare discernible at the Lot Lines.

**B. Light Manufacturing****1. M1 and M1A Districts**

- a. Limited to a low concentration, external effects are minimized and permitted uses are limited to those which are adapted to an environment of this nature.
- b. Excludes uses which would have a detrimental effect upon the orderly Development and functioning of the district.
- c. Manufacturing plants and uses shall have performance characteristics similar to those uses listed for these districts in Table 5-15 in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation.
- d. Shall be so designed, constructed and operated that there is no production of sound discernible at the Lot Lines in excess of the average intensity of street and traffic noise at the Lot Lines, nor any production of heat or glare discernible at the Lot Lines.

**C. Oil and Gas Wells<sup>116</sup>**

The locating, sinking, drilling, casing, deepening or operating of oil wells, gas wells, and Oil and Gas Wells and test holes for the location of natural crude oil or natural dry gas, or both, is prohibited throughout the city.

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<sup>116</sup> Moved from current Chapter 56.



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## D. Wireless Communication Facilities<sup>117</sup>

### 1. All Districts

#### a. General Standards

- i) To assist the City in accommodating wireless communications facilities, each applicant shall provide an inventory of its existing and planned wireless communications facilities that are within the City and within 1 mile of the City's boundaries, including their location, height and design. The City, by sharing such information with a third party, does not in any way represent or warrant that such sites are available or suitable.
- ii) Wireless communications antennas shall comply with applicable federal standards for non-ionizing electromagnetic radiation, as they may from time to time be amended. Documentation shall be submitted to the Building Department verifying compliance with the FCC standards prior to the issuance of any permit.
- iii) Each applicant shall exercise due diligence to determine the availability of a location for its antenna on all existing Towers, approved Towers, and other suitable Structures within a half-mile radius of the proposed site. Due diligence shall consist of documented evidence that owners of all existing or approved Towers or other suitable Structures were contacted by certified mail or overnight courier, and that these sites cannot accommodate the requested antennas for reasons other than economic reasons. Applicants shall provide detailed radio frequency (RF) coverage and capacity maps for all proposed wireless service providers for the proposed site, showing coverage and capacity of the carriers' surrounding network with both existing and planned sites. The Planning Commission may deny a proposed wireless communication facility if it determines that another existing or approved site can reasonably accommodate the proposed facility and provide generally equivalent service.
- iv) Certification from the City official with assigned responsibility for management of the City airport that the height of a proposed Tower will not be such that it would interfere with airport operations is required from applicant at the time of site plan submission.
- v) Unless otherwise specifically approved by the Planning Commission, all Wireless Communications Towers shall be monopoles, designed for co-location, which is the provision of more than one antenna array, usually belonging to more than one licensed carrier, on a single monopole. Towers 125 feet in height or less shall be designed for co-location of at least two antenna arrays or carriers. Towers greater than 125 feet or less than or equal to 155 feet in height shall be designed for co-location of at least three antenna arrays or carriers.

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<sup>117</sup> Standards from Section 5:82.

- vi) Towers greater than 155 feet in height shall require a height modification to be approved by the Zoning Board of Appeals as specified elsewhere in this Chapter and shall be designed for co-location of at least four antenna arrays or carriers.
- vii) Sites proposed for facilities shall not have a separate access Curb Cut proposed for the Towers unless no reasonable alternative exists. Such on-site driveways need not be paved, but must have a stable, improved surface adequate to support occasional maintenance vehicles, and comply with all regulations pertaining to Curb Cuts provided in this Chapter.
- viii) The right-of-way buffer requirement of section 5.20 must be complied with if the lower portion of the Tower is visible from the Public Right-of-Way, unless at least the lower 30 feet of the Tower is adequately screened by an existing Building.
- ix) Vinyl-coated security fencing, a minimum of six feet tall, and adequate landscaping around the Base of the Tower and any equipment Buildings or cabinets is required unless an opaque decorative security wall, a minimum of six feet tall, is provided. Barbed wire or razor wire is not permitted. Landscaping shall consist of a combination of deciduous and evergreen landscape materials that meet the screening materials standards in section 5.20.
- x) Signs, except for emergency notification of the owner of the facility, are not permitted on wireless communications facilities.
- xi) Artificial illumination of Towers is not permitted unless required by federal or state regulations or to protect public safety, as determined by the Planning Commission. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to surrounding properties.
- xii) Towers shall be a low or no maintenance non-contrasting blue or gray in order to be as unobtrusive as possible, unless another color or design is deemed by the Planning Commission to be less obtrusive under the existing circumstances.
- xiii) No natural feature may be removed or disturbed to accommodate the placement of a wireless communication facility.
- xiv) All transmission lines related to and serving any antenna or facility shall be placed underground.
- xv) Wireless communications facilities may be placed on sites with legally Nonconforming Structures or uses without being considered to be expansions of such nonconformities.

**b. Placement Standards**

- i) Towers shall not be located in an Established Front Setback or a required Front Open Space, provided, however, that a Tower may be located along a freeway, as long as the Tower is set back from the edge of the right-of-way a minimum of half the height of the Wireless Communications Tower.

- ii) Setbacks shall be measured from property lines to the Base of the Tower. Tower height includes the antenna.
- iii) The minimum required side setback shall be that side setback specified in Tables 5:17-1, 5:17-2, 5:17-3 and section 5:18 as applicable to that zoning district plus 1 foot for each 5 feet, or fraction of 5 feet, of Tower height.
- iv) The minimum required rear setback shall be that rear setback specified in Tables 5:17-1, 5:17-2, 5:17-3 and section 5.17 as applicable to that zoning district plus 1 foot for each 10 feet, or fraction thereof, of Tower height.
- v) On any site where side or rear property lines border residentially zoned property, the side or rear setback shall be equal to the Tower height and a conflicting land use buffer, as specified in section 5.17, shall be required adjacent to the residential property line.
- vi) Accessory Structure and equipment, if any, shall meet setbacks for accessory Structure in the district or 10 feet, whichever is greater.

**c. Compliance**

- i) Towers shall meet the City building code and other applicable structural standards. Prior to construction, a licensed professional structural engineer's certificate certifying that the Tower meets all applicable building code and other structural standards shall be provided to the building official.
- ii) A cash bond or certified check in an amount established by resolution of City Council upon recommendation of the city administrator shall be posted at the time of building permit application to cover the cost of removal and shall be maintained for the life of the Tower.
- iii) Abandoned Wireless Communications Towers must be removed by the owner of the Tower and/or the operator of the Tower. Any Wireless Communications Tower that does not have at least one antenna operating for a continuous period of 180 days shall be deemed abandoned. Determination of the date of abandonment shall be made by the PDSU Manager, who shall have the right to request documentation or affidavits from the Tower owner or operator of the Tower regarding Tower usage and other pertinent information. Failure or refusal for any reason by the Tower owner or operator of the Tower to respond within 30 days to such a request shall constitute prima facie evidence that the Tower has been abandoned. Upon determination of abandonment and the appropriate notice thereof to the Tower owner and/or operator of the Tower, the Tower owner and/or operator of the Tower shall have 120 days within which to either reactivate the use of the Tower, or dismantle and remove the Tower and footings to 5 feet below grade. The Tower owner and/or operator of the Tower shall restore the property to the condition which existed prior to the construction of the Tower.

- iv) If the Tower owner and/or operator of the Tower fails to remove the Tower within the appropriate time period, the City shall have the right to remove the Tower and collect on the cash bond or certified check on file with the City. The City shall bill the Tower owner and/or operator of the Tower all the costs and/or expenses associated with the removal of the Tower in excess of the cash bond and/or certified check. If the Tower owner and/or operator fails to pay the costs and/or expenses associated with the Tower removal which are in excess of the cash bond and/or certified check within 45 days from the date of the bill, then, in addition to any other remedy in law or in equity, the City shall have the right to place a lien on the property for all costs and expenses associated with the removal of the Tower, less the amount of the cash bond or certified check which is on file with the City.

## 2. C1 District

- a. In addition to meeting all of the standards in subsection 1 above, each use shall occupy a total gross Floor area of not more than 8,000 square feet.

### 5.16.6. Accessory Uses and Structures

#### A. All Accessory Uses<sup>118</sup>

##### 1. General

No accessory Building shall be used prior to the Principal Building or Principal Use, except as a construction facility for a Principal Building. Such construction facility shall not be used for residential purposes. This exception is a temporary one which shall lapse 30 days after completion of the Principal Building, or Buildings.

##### 2. R-1, R-2, R-3, R-4, R-5, R-6, and P zoning districts

Accessory Buildings in these districts shall conform to the following regulations, except as may otherwise be provided in this Chapter:

- a. Accessory Buildings shall not exceed 21 feet in height.
- b. Accessory Buildings shall not be erected in any required Front Open Space.
- c. Accessory Buildings may occupy required side Open Space provided that such Buildings are more distant from the street than any part of the Principal Building on the same lot and any part of the Principal Building on any lot abutting said required side Open Space; provided that such accessory Buildings are not closer than 3 feet to any Lot Line
- d. Accessory Buildings may occupy required rear Open Spaces provided that such Buildings do not occupy more than 35% of the required rear Open Space and are not closer than 3 feet to any Lot Line.

<sup>118</sup> This text has been relocated from another section of the use-specific standards and placed here as the first standard in the Accessory Use standards because it is a general standard that applies to each Accessory Use.

- e. On any Corner Lot in a residential zoning district, no part of any accessory Building shall be nearer the exterior side Lot Line than the required Open Space as regulated in section 5.18.2.
- f. An attached garage or carport shall not occupy any portion of the required side Open Space.

**B. Dish Antenna<sup>119</sup>**

1. No person shall install a Dish Antenna greater than 3 feet in diameter without having obtained a building and electrical permit.
2. R-1, R-2, R-3 or R-6 Districts
  - a. It shall be ground mounted.
  - b. The diameter shall not exceed 10 feet.
  - c. The height shall not exceed 12 feet.
  - d. It shall be located only in the area between the rear of the principal Structure and the rear property line. In the case of corner lots, it shall not be located in the exterior side setback.
  - e. It shall not be placed closer to any Lot Line than its height.
3. R-4 District

Dish antennas may be erected in any R-4 zoning district in accordance with the standards of subsection b., but they may be Roof-mounted if they do not exceed the height limit of the district.
4. All Districts Other Than R-1, R-2, R-3, R-4 and R-6 Districts
  - a. The diameter shall not exceed 12 feet.
  - b. A ground-mounted Dish Antenna shall comply with the setback requirements established for its zoning district, but shall not be located in the area between a street right-of-way line and the Established Front Setback Line.
  - c. The height for a ground-mounted Dish Antenna shall not exceed 25 feet.
  - d. The height of a Roof-mounted Dish Antenna shall not exceed 15 feet, nor shall it exceed the height limit established within its zoning district.
5. Dish antennas in any zoning district shall be installed and maintained in compliance with applicable building and electrical codes, and shall be subject to the following standards:
  - a. Not more than 1 Dish Antenna greater than 3 feet in diameter shall be allowed on any lot unless shown on an approved site plan.
  - b. Dish antennas must be solid in color.
  - c. Dish antennas must be permanently mounted except under the following circumstances:

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<sup>119</sup> Text from Sec. 5:81.

- i) The Dish Antenna has been designed and sold as a portable antenna not intended for permanent installation, and the diameter of the Dish Antenna does not exceed 6 feet. Portable dish antennas shall meet the requirements of section 5.16.6.B.2.c - e of this section.
- ii) Portable dish antennas may be installed at locations other than required in subsections 2., 3., and 4. for not more than 7 days in any 30-day period.

### **C. Drive-through Window**

#### **1. O District**

- a. Permitted for financial uses only;
- b. Subject to Special Exception Use approval pursuant to section 5.29.6.

#### **2. D1, D2, and C2B Districts**

- a. Permitted Principal Use;
- b. Subject to Special Exception Use approval pursuant to section 5.29.6.

### **D. Dwelling Unit, Accessory**

#### **1. All Single-Family Zone Districts**

One Accessory Dwelling Unit is permitted subject to the Special Exception Use approval pursuant to section 5.29.6. In addition to meeting those criteria in section 5.29.6.D, the use shall meet the following standards.

- a. The owner of the dwelling in which the Accessory Dwelling Unit is created shall occupy 1 of the Dwelling Units, except for temporary absences.
- b. The Accessory Dwelling Unit shall be designed so that the appearance of the Building remains that of a one-family residence. Any new entrances shall be located on the side or in the rear of the Building and any additions shall not increase the square footage of the original house by more than 10%.
- c. The Accessory Dwelling Unit shall not exceed 25% of the entire Floor area of the Structure, nor shall it be greater than 600 square feet in gross Floor area.
- d. The dwelling to which an Accessory Dwelling Unit is to be added must be owner-occupied and have been owner-occupied by the current owner for the 12 calendar months preceding the date of application.
- e. No rent shall be paid for the Accessory Dwelling Unit.
- f. The Accessory Dwelling Unit shall be occupied only by persons related by blood, marriage or adoption to the Family occupying the principal dwelling or by not more than 2 employees not related to the Family occupying the principal dwelling.

- g. Accessory Dwelling Unit may not be converted for accessory apartment use.
- h. The total number of persons residing in the Building shall not exceed the occupancy permitted by section 5.16.1.A.
- i. At least 3 off-street Parking Spaces shall be provided for the dwelling and Accessory Dwelling Unit.

#### **E. Dwelling Unit, Manager's**

##### **1. M1, M1A and M2 Districts**

- a. Limited to one Dwelling Unit, provided that it is specifically required to house a security person or resident manager who is needed to properly carry on the Business of the permitted use, and shall be used as a dwelling only by that security person or resident manager and members of that person's Family.

#### **F. Family Day Care Home**

##### **1. All Residential Zone Districts**

- a. Must be licensed by the State of Michigan Department of Human Services.

#### **G. Group Day Care Home**

##### **1. All Residential Zone Districts**

- a. Must be licensed by the State of Michigan Department of Human Services.
- b. A zoning compliance permit must be obtained from the building department.
- c. Must be located on a lot with at least 5,000 square feet of Gross Lot Area.
- d. Must provide at least 1 off-street Parking Space for each care giver not living in the dwelling.
- e. Must show that two off-street or on street Parking Spaces are available within 250 feet of the parcel for drop off and pick up of children.

#### **H. Home Occupation**

##### **1. All Residential Zone Districts**

- a. Total Floor area devoted to the Home Occupation in the principal or accessory Building shall not exceed 25% of the gross Floor area of the dwelling.
- b. Outside appearance of Premises shall have no visible evidence of the conduct of a home occupation.
- c. No outdoor display of goods or outside storage of equipment or materials used in the Home Occupation shall be permitted.

- d. No article or service shall be sold or offered for sale on the Premises except those which are produced by such Home Occupation on the Premises.
- e. The nature of the Home Occupation shall not generate more than 10 Business-related vehicle trips in any 1 day in the vicinity of the home occupation, and any need for parking generated by the conduct of such Home Occupation shall be provided off-street in accordance with the off-street parking requirements.
- f. No equipment or process shall be used in such Home Occupation which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
- g. The following are typical examples of that which often can be conducted within the limits of these restrictions and qualify as home occupations. Uses that may qualify as "home occupations" are not limited to those named in this paragraph (nor does the listing of a use in this paragraph automatically qualify it as a home occupation); accountant, architect, artist, author, consultant, dressmaking, individual stringed instrument instruction, individual tutoring, millinery, preserving and home cooking.
- h. The following uses are not permitted as home occupations if conducted as a person's principal occupation and the person's dwelling is used as the principal place of Business: vehicle repair or painting, Dental Office and Medical Office.

## **I. Incidental Services**

### **1. O District**

- a. Home occupations other than beauty salons may be provided within an Office Building or Buildings for the convenience of occupants of that Building, provided the use meets the following standards:
  - i) Not more than 5 percent of the usable Floor area is used for Incidental Services.
  - ii) All Incidental Services shall be situated within the interior of the Building or Buildings so that no part of the service Premises shall be directly accessible from the outside of the Building.
  - iii) No Sign or window display shall be discernible or visible from a public sidewalk or street.

### **2. R5 District**

- a. All Incidental Services shall be situated within the interior of the Principal Building or Buildings.

### **3. ORL District<sup>120</sup>**

- a. Not more than 5% of the total usable Floor area within the continuous boundary of an area zoned ORL may be used for Incidental Services.

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<sup>120</sup> Use standards are from "Incidental Sales and Services" that was converted from a Principal Use to an Accessory Use.



- b. All such services shall be situated to conveniently serve the employees of the district.
- c. The total Floor area dedicated to such uses shall not occupy more than 25% of the total Floor area of a Building or Buildings.

**J. Outdoor Display and Vending Machines**

- 1. The Display or Vending Machine:
  - a. Shall be located within 10 feet of principal Building;
  - b. Shall not be located in any required Open Space;
  - c. Shall maintain adequate pedestrian access and circulation; and
  - d. Is only permitted in an area specifically designated for outdoor sales and display on an approved site plan.<sup>121</sup>

**K. Outdoor Sales, Seasonal**

- 1. Seasonal Outdoor Sales:
  - a. Require the issuance of a zoning compliance permit;
  - b. Are limited to a maximum of 180 days per calendar year;
  - c. Shall occupy an area of 10% or less of the Floor area of the Principal Building or use;
  - d. Shall not be located in any required Open Space; and
  - e. Shall maintain adequate pedestrian and vehicular circulation.

**L. Restaurant, Bar, Food Service**

**1. R5 District**

- a. Must be planned, designed, developed and made an integral and unified part of a Hotel so as to not result in a separate, freestanding Building.<sup>122</sup>

**M. Retail Sales, General Merchandise**

**1. ORL District**

- a. Permitted as an Accessory Use: Retail Sales of products or services produced on the site;
- b. The total amount of Floor area devoted to sales and display shall not exceed 5% of the total Floor area of the use.

**2. M1 and M1A Districts**

- a. Limited to Retail Sales of products customarily incidental to the Principal Use;

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<sup>121</sup> This use standard relocated from “Outdoor sales and display” that was formerly in the Principal Use category.

<sup>122</sup> Revised for clarity.

- b. The total amount of internal Floor area of the Structure devoted to sales and display shall not exceed 10% of the Floor area of the total establishment.

#### **N. Wireless Communication Antenna**

The provisions of section 5.16.6 shall apply as applicable to accessory antennas rather than freestanding Towers.

#### **5.16.7. Temporary Uses**

##### **A. Christmas Tree Sales**

1. A zoning compliance permit pursuant to section 5.29.1 is required;
2. Only permitted in residential zoning districts on an approved church, school, or community center;
3. Shall not be located in any required Open Space; and
4. Permitted between Thanksgiving and December 25.

##### **B. Outdoor Sales, Temporary by Others**

1. Special Exception Use approval pursuant to section 5.29.6 is required.
2. Limited to Retail Sales of General Merchandise by a party other than the Principal Users of the site in accordance with any conditions of the Special Exception Use permit.
3. If approved to occur on more than one occasion, all occasions after the first instance shall require a zoning compliance permit pursuant to section 5.29.1.

##### **C. Special Event Sales**

The City Council may, by resolution, designate certain dates and locations as special events Temporary Outdoor Sales areas. Said resolution shall include conditions and standards of conduct to be in force for outdoor sales and displays on private property. A property owner who wishes to conduct outdoor sales and displays on his or her private property, as provided for in the Council resolution, shall first apply for and receive a zoning compliance permit by the date designated in the resolution. The conditions and standards contained in the resolution shall be conditions of the zoning compliance permit issued to a property owner. Failure to comply with the conditions set in the resolution shall be a violation of this ordinance section and shall be grounds to revoke all permits granted to the property owner for the duration of the special event identified in the resolution.<sup>123</sup>

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<sup>123</sup> Use standard from “Temporary Outdoor” that has been separated into various accessory and temporary activities.

# Article IV: Development Standards

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## 5.17. Area, Height and Placement Regulations

### 5.17.1. Intent<sup>124</sup>

The intent of this section is to provide clear and consistent area, height and placement regulations for construction in the City of Ann Arbor. The standards are intended to require the appropriate placement of Buildings that result in improved non-motorized access, adequate Open Space, and the efficient use of land and infrastructure consistent with principles of sustainable land use practices described in adopted City master plans. The front setback regulations are intended to result in the placement of Buildings sufficiently close to the Public Right-of-Way to better provide access for pedestrians, bicyclists and public transit passengers.

### 5.17.2. General Requirements

Except as otherwise provided in this Chapter, regulations governing lot size, lot area per Dwelling Unit, required usable Open Space, Required Setback Lines, building height, and other pertinent factors are as shown in Tables 5:17-1, 5:17-2, 5:17-3 and section 5:18.

### 5.17.3. Residential Zone Districts

#### A. Determination of Number of Dwelling Units

The determination of the permitted number of Dwelling Units in the "R" residential dwelling districts shall be made as follows: The Gross Lot Area of the parcel in question is divided by the "minimum lot area per Dwelling Unit" for the type of unit desired (or by the average for a variety of types) with the quotient being the number of Dwelling Units permitted. Gross Lot Area does not include the area of dedicated public streets, area to be dedicated to the public as a public street, or the area of private streets in the R1 and R2 districts.

#### B. Dimensional Table for Residential Zone Districts

Dimensional standards for residential zone districts provided in Tables 5:17-1, 5-17-2, and 5.17-3.<sup>125</sup>

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<sup>124</sup> Text per ORD-10-34-Ch.55.

<sup>125</sup> The extensive changes to the dimensional tables were done consistent with ORD-10-34-Ch.55.

**TABLE 5:17-1: SINGLE-FAMILY RESIDENTIAL ZONE DISTRICT DIMENSIONS****NOTE:** The requirements in this table may be superseded by the standards in section 5.18.

DISTRICT	MAXIMUM DENSITY (DWELLING UNITS PER ACRE)	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT [A] [B]	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
<b>AG</b>		100,000	40 [C]	10% of Lot Width	20% of Lot Width	50	30	100,000	200
<b>R1A</b>	[D]	20,000	40	7	18	50	30	20,000	90
<b>R1B</b>	[D]	10,000	30	5	14	40	30	10,000	70
<b>R1C</b>	[D]	7,200	25	5	10	30	30	7,200	60
<b>R1D</b>	[D]	5,000	25	3	6	20	30	5,000	40
<b>R1E</b>	[D]	4,000	15	3	6	20	30	4,000	34

**NOTES:**

[A] Parking Spaces or lots shall not be located in the Front Open Space in accordance with section 5.19.8 and section 5.20.3.

[B] Also see additional regulations in section 5.18.5 (Averaging an Existing Front Setback Line).

[C] For roadside stands only the minimum is 30 ft.

[D] Where more than 1 residential Structure is to be constructed on a lot in the R1 districts, or where dwellings are served by a private street under the provisions of section 5.21 and Chapter 47, 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) property line; (c) A minimum front setback of 10 feet must be provided between all Structures and the private street pavement.

**TABLE 5:17-2 TWO-FAMILY RESIDENTIAL ZONE DISTRICT DIMENSIONS**

NOTE: The requirements in this table may be superseded by the standards in section 5.18.

DISTRICT	MAXIMUM DENSITY (DWELLING UNITS PER ACRE)	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	REQUIRED SETBACK (FT.)					MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT [A][B]	MAXIMUM FRONT	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
R2A	[C]	4,250	25 [D]	None [D]	5 [D]	[D]	30 [D]	30	8,500	60
R2B	[C]	4,250 [E]	25 [D] [F]	None [F]	8 [D]	Lot Width [D]	30 [D]	30	8,500	60

NOTES:

[A] Parking Spaces or lots shall not be located in the Front Open Space in accordance with Section 5.19.8 and Section 5.20.3.

[B] Also see additional regulations in Section 5.18.5 (Averaging an Existing Front Setback Line).

[C] Where more than 1 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 5.21 and Chapter 47, 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) property line; (c) A minimum front setback of 10 feet must be provided between all Structures and the private street pavement.

[D] In addition to the Required Setbacks lines, the horizontal distance between Buildings shall not be less than 20 feet.

[E] Except for fraternities, sororities, cooperative houses, and boarding houses, for which minimum net lot area shall be 350 sq. ft. per occupant.

[F] Or the Established Front Setback existing on the date this ordinance is adopted, whichever is larger.

**TABLE 5:17-3 MULTIPLE-FAMILY RESIDENTIAL ZONE DISTRICT DIMENSIONS**

NOTE: The requirements in this table may be superseded by the standards in section 5.18.

DISTRICT	MAXIMUM DENSITY (DWELLING UNITS PER ACRE)	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	MINIMUM OPEN SPACE (% OF LOT AREA)	MINIMUM ACTIVE OPEN SPACE PER DWELLING UNIT (SQ. FT.)	REQUIRED SETBACK (FT.)					MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
					MINIMUM FRONT	MAXIMUM FRONT	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
R3					15 [A] [B]	40 [C]	20 [A][B][D]	[A][B]	30 [A][B] [D]	35	21,780	120
R4A	10	4,300	65	300	15 [A][B]	40 [C]	20 [A][B][D]	[A][B]	30 [A][B] [D]	30 or 45 [E]	21,780	120
R4B	15	2,900	55	300	15 [A][B]	40 [C]	12 [A][B][D]	[A][B]	30 [A][B] [D]	30 or 45 [E]	14,000	120
R4C	20	2,175	40	300	25 [A][B]		12 [A][B]	[A][B]	30 [A][B]	30	8,500	60
R4D	25	1,740	50	300	15	40	30 [A][B][D]	[A][B]	30	120	83,000	200

**TABLE 5:17-3 MULTIPLE-FAMILY RESIDENTIAL ZONE DISTRICT DIMENSIONS**

NOTE: The requirements in this table may be superseded by the standards in section 5.18.

DISTRICT	MAXIMUM DENSITY (DWELLING UNITS PER ACRE)	MINIMUM LOT AREA PER DWELLING UNIT (SQ. FT.)	MINIMUM OPEN SPACE (% OF LOT AREA)	MINIMUM ACTIVE OPEN SPACE PER DWELLING UNIT (SQ. FT.)	REQUIRED SETBACK (FT.)					MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
					MINIMUM FRONT	MAXIMUM FRONT	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
					[A][B]	[C]				[A][B][D]		
R4E <sup>126</sup>	75				[B]		[B]	[B]		[B]		
R6		10 times the usable Floor area for each Dwelling Unit			40		20			30	15; 12 for accessory Structures	170,000 100

NOTES:

- [A] In addition to the Required Setbacks lines, the horizontal distance between Buildings shall not be less than 20 feet.
- [B] (1) The required side setback line minimum dimension, as set forth above, shall be increased 3 inches for each foot of Building Height above 35 feet and 1 1/2 inches for each foot of building length over 50 feet. The rear Required Setback Line the minimum dimensions, as set forth above, shall be increased 1 1/2 inches for each foot of Building Height over 35 feet and 1 1/2 inches for each foot of building width over 50 feet. The building length shall be the dimension of that side, which is parallel to the side Lot Line, of a rectangle within which the Building may be located. The Building width shall be the dimension of that side which is parallel to the Front Lot Line, of a rectangle within which the Building may be located.<sup>127</sup>
- (2) As an alternate to providing the additional side Open Space required in note (1) above, an equal amount of usable Open Space may be provided between the minimum side setback line and the Building. Nothing in this section shall be deemed, however, to permit reduction of the required side setback line minimum dimension, as set forth in the table above.<sup>128</sup>
- [C] For new freestanding Buildings constructed or site planned after January 3, 2011, otherwise none. Maximum setbacks shall apply to at least one Lot Line for new freestanding Buildings constructed or site planned after January 3, 2011, on parcels with more than one Front Lot Line.
- [D] Plus one foot of additional setback for each foot of Building Height above 30 feet when abutting residentially zoned land.
- [E] For Buildings with parking below at least 35% of the Building.

<sup>126</sup> Additional dimensional standards may be necessary for the R4E.

<sup>127</sup> Text from Sec. 5.62(1).

<sup>128</sup> Text from Sec. 5.62(2).

## 5.17.4. Mixed Use Zone Districts

Dimensional standards for mixed use zone districts are provided in Table 5:17-4.

TABLE 5:17-4: MIXED USE ZONE DISTRICT DIMENSIONS

NOTE: The requirements in this table may be superseded by the standards in section 5.18.

DISTR ICT	MAXIMUM BUILDING COVERAGE, (PERCENT OF LOT AREA)	MAXIMUM FAR (PERCENT OF LOT AREA)		MINIMUM OPEN SPACE (PERCENT OF LOT AREA)	REQUIRED SETBACK (FT.)				HEIGHT		MINIMUM GROSS LOT DIMENSIONS	
		NORMAL	WITH PREMIUMS (SEE SEC. 5.18.7)		MINIMUM FRONT	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR	FT.	STORIE S	AREA (SQ. FT.)	WIDTH (FEET)
O		75			15[A]	[C][D]	[C][D]	[E]	[E]	6,000	50	
D1		400	700 (900 with affordable housing premiums)					24 min. [F]	2 min. [F]			
D2	80	200	400	10				24 min. [F]	2 min. [F]			
C1 <sup>129</sup>		100			10[L]	[C][D]	[C][D]	35 max.	3 max.	2,000	20	
C1B		150			10[L]	[C][D]	[C][D]	50 max.	4 max.	5,000	20	
C1A		200	400			[H]		No max.	No max.			
C1A/R		300	600			[I]		No max.	No max.			
C2B		200			10[L]	[C][D]	[C][D]	55 max.	4 max.	4,000	40	
C3		200			10 [L]	[C][D]	[C][D]	20 [C][D]	55 max.	4 max.	6,000	60

## NOTES

[A] Maximum front setback is 40 feet, but for new freestanding Buildings constructed or site planned after January 3, 2011, none. Maximum setbacks shall apply to at least one Lot Line for new freestanding Buildings constructed or site planned after January 3, 2011 on parcels with more than one Front Lot Line.

[B] 20 ft. for Open Space abutting residentially zoned land, otherwise none.

[C] 30 ft. for Open Space abutting residentially zoned land, otherwise none.

[D] Plus one foot of additional setback for each foot of Building Height above 30 feet when abutting residentially zoned land.

[E] None, except in any area on a parcel extending 300 feet from an abutting residentially zoned land the limits shall apply: 55 feet and 4 stories.

[F] The minimum height requirement shall apply only to new Principal Use Buildings constructed after December 26, 2009; otherwise none. The usable Floor area of the second Story must be at least 75% of the first Story usable Floor area. For maximum height see Table 5:17-1.

[G] Except 30 ft. where abutting residentially zoned land.

[H] When any Lot Line abuts residentially-zoned land, a Required Setback shall be applied from that Lot Line equal to that which is required in the abutting residential zone. When a Building exceeds 5 stories in height, there shall be window wall and non-window wall setbacks in accordance with section 5.18.6 Error! Reference source not found.; otherwise none.

[I] 10-foot setback. This shall apply to every Lot Line that abuts a public street. When any opens space abuts residentially-

<sup>129</sup> The standards for the C1B district are the same as CB listed in the current code under "C1 and CB".

**TABLE 5:17-4: MIXED USE ZONE DISTRICT DIMENSIONS**

**NOTE: The requirements in this table may be superseded by the standards in section 5.18.**

DISTRICT	MAXIMUM BUILDING COVERAGE, (PERCENT OF LOT AREA)	MAXIMUM FAR (PERCENT OF LOT AREA)		MINIMUM OPEN SPACE (PERCENT OF LOT AREA)	REQUIRED SETBACK (FT.)				HEIGHT		MINIMUM GROSS LOT DIMENSIONS	
		NORMAL	WITH PREMIUMS (SEE SEC. 5.18.7)		MINIMUM FRONT	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR	FT.	STORIES	AREA (SQ. FT.)	WIDTH (FEET)
<p>zoned land, a required Open Space shall be required equal to that which is required in the abutting residential zone. There shall be window wall and non-window wall setbacks in accordance with section 5.18.6 Error! Reference source not found.. When a Building containing any residential uses does not exceed 5 stories in height, the total square footage of the front, rear and side yards, shall not be less than 30% of the lot area.</p> <p>[J] When any Lot Line abuts residentially-zoned land, the Required Setbacks provided from that Lot Line shall be: minimum on one side=10, minimum total of two sides=10, and rear=40. Structure Lot Line</p> <p>[K] Except, for Open Space which abuts residentially zoned land, the required Open Space provided shall be: front=40, minimum on one side=30, minimum total of two sides=30, and rear=30.</p> <p>[L] Maximum front setback is 25 feet, but for new freestanding Buildings constructed or site planned after _ [INSERT EFFECTIVE DATE]_, 2010, none. Maximum setbacks shall apply to at least one Lot Line for new freestanding Buildings constructed or site planned after [INSERT EFFECTIVE DATE], 2010 on parcels with more than one Front Lot Line.</p>												

**5.17.5. Nonresidential and Special Purpose Zone Districts**

Dimensional standards for nonresidential and special purpose zone districts are provided in Table 5:17-5.

**TABLE 5:17-5: NONRESIDENTIAL AND SPECIAL PURPOSE ZONE DISTRICTS**

**NOTE: The requirements in this table may be superseded by the standards in section 5.18.**

DISTRICT	MAXIMUM GROSS LAND COVERAGE OF STRUCTURE	MAXIMUM FAR (PERCENT OF LOT AREA)	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT [A]	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
<b>R5</b>	Minimum 900 sq. ft. of lot area per bedroom		15 [B]	25[D]		15[D]	50 or 80[H]	20,000	100
<b>P</b>		No max.	[I]	2.5 or 15[J]		2.5	[K]	None	None
<b>PL</b>		No max.							
<b>RE</b>		75 max.	25 [B]	[C][D]	[C][D]	[C][D]	[E]	60,000	150
<b>ORL</b>		75 max.	[J]	[C][D]	[C][D]	[C][D]	[E]	40,000	150
<b>M1 and M1A</b>	40	75 min.	15 [F]	[G][D]	[G][D]	0; 50 when abutting residentially-zoned land [D]	35	13,000	100



<b>TABLE 5:17-5: NONRESIDENTIAL AND SPECIAL PURPOSE ZONE DISTRICTS</b>									
<b>NOTE: The requirements in this table may be superseded by the standards in section 5.18.</b>									
DISTRICT	MAXIMUM GROSS LAND COVERAGE OF STRUCTURE	MAXIMUM FAR (PERCENT OF LOT AREA)	REQUIRED SETBACK (FT.)				MAXIMUM HEIGHT FT.	MINIMUM GROSS LOT DIMENSIONS	
			MINIMUM FRONT[A]	MINIMUM ON ONE SIDE	MINIMUM TOTAL OF TWO SIDES	MINIMUM REAR		AREA (SQ. FT.)	WIDTH (FT.)
<b>M2</b>	30	60 min.	15	[G][D]	[G]	30; 100 when abutting residentially zoned land	35	125,000	200
<b>PUD</b>	See sections 5.13.9 and 5.29.11								
<p>NOTES:</p> <p>[A] See additional regulations in Section 5.19.8 and Section 5.20.3.</p> <p>[B] Maximum front setback is 50 feet. For new freestanding Buildings constructed or site planned after [INSERT EFFECTIVE DATE], 2010, otherwise none. Maximum setbacks shall apply to at least one Lot Line for new freestanding Buildings constructed or site planned after [INSERT EFFECTIVE DATE], 2010 on parcels with more than one Front Lot Line.</p> <p>[C] None, except a minimum setback of 100 feet is required where a Lot Line abuts a residential zoning district.</p> <p>[D] Plus one foot of additional setback for each foot of Building Height above 30 feet when abutting residentially zoned land.</p> <p>[E] None, unless the parcel abuts residentially zoned land, in which case the following limitations shall apply: 50 feet and 4 stories.</p> <p>[F] For new freestanding Buildings constructed or site planned after [INSERT EFFECTIVE DATE], 2010, otherwise none.</p> <p>[G] None, except 30 feet where abutting residentially zoned land.</p> <p>[H] For Buildings with parking below at least 35% of the Building.</p> <p>[I] 10 feet, consistent with the right-of-way screening requirement in section 5.20 (Landscape, Screening and Buffering).</p> <p>[J] When abutting residential zoning, consistent with the conflicting land use buffer requirements in section 5.20 (Landscape, Screening, and Buffering)</p> <p>[K] Garages may not exceed height limit of any abutting zoning districts. Lot Line</p>									

## 5.18. Special Dimensional Standards

This section provides dimensional standards that are supplement or that modify the standards contained in the dimensional tables in section 5.17 above.

### 5.18.1. Required Open Space<sup>130</sup>

#### A. General

Except as specifically provided in this Chapter, required Open Space shall be open, unoccupied, and unobstructed by any permanent Structure or any part of a Structure from the ground to the sky.

#### B. Exceptions

1. The following types of Structures may be located anywhere on a lot: open and unroofed terraces, patios, stoops and steps, ramps for building access, awnings, flagpoles, trellises, retaining walls, fountains, outdoor cooking equipment, sidewalks, mailboxes, light poles, and Fences in accordance with section 5.26. Parking lots and drives may be located in required Open Space if permitted by sections 5.19 and 5.21.
2. In residential zoning districts, the following types of Structures may be located anywhere on a lot except the required Front Open Space:
  - a. Solid waste containers (unless approved under Section 2:4 of Chapter 26);
  - b. Fire escapes; and
  - c. Mechanical equipment.
3. Certain architectural features, such as cornices, eaves, gutters, and chimneys may project up to 2 feet into required Open Space.

### 5.18.2. Lots with Frontage on More than One Street <sup>131</sup>

The minimum front setback dimension, and the regulations pertaining to the Front Open Space and the required Front Open Space, of the zoning district in which a lot is located shall be applied to every Lot Line abutting a public street, provided, however, that this does not reduce the width suitable for a Building on any Lot of Record to less than 25 feet.

### 5.18.3. Additional Area, Height and Placement Standards<sup>132</sup>

A. No portion of a lot used in connection with a Building, Structure or use and necessary for compliance with the area, height, and placement regulations of this Chapter, shall, through sale or otherwise, be used again as a part of the lot required for any other Building, Structure or use, except as provided in subsections B or C below.

B. After an official site plan approval of attached single-family dwellings, terrace Family dwellings, or condominium Buildings in conformity with all area, height

<sup>130</sup> From current Sec. 5:54.

<sup>131</sup> From current Sec. 5:58.

<sup>132</sup> From current Sec. 5:55.

and placement regulations, applicable to the primary Building(s) the platting and/or conveyance of individual Dwelling Units within the primary Structure shall not be deemed to render either the primary Building(s) or any individual Dwelling Unit a Nonconforming Structure. Platting and/or conveyance of individual Dwelling Units shall be subject to the provisions of section 2:33, Chapter 27, Title II of this Code relating to multiple services.<sup>133</sup>

C. Nothing in this section is intended to allow a greater density of population, greater intensity of land use, or less required Open Space than that provided in the approved site plan or plat.

#### 5.18.4. Exceptions to Height Limits<sup>134</sup>

##### A. Height Modification for Certain Architectural and Mechanical Features<sup>135</sup>

The height limits of this Chapter may be modified, upon appeal to the Zoning Board of Appeals, in their application to spires, belfries, cupolas, penthouses, domes, water Towers, observation Towers, power transmission lines and Towers, Roof-mounted dish antennas, masts and aerials, flagpoles, chimneys, smokestacks, ventilators, skylights, derricks, conveyors, cooling Towers, and other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the zoning districts in which they are located. If such facilities are proposed specifically to house and disguise wireless communications facilities, their height limits shall be those in section 5.16.5.D. In making a decision on an appeal under this section, the Zoning Board shall apply those criteria applicable to a general variance request in section 5.29.5.C.

##### B. Wireless Communications Antennas

Wireless communications antennas are not subject to the height limits of this Chapter, except when attached to Wireless Communications Towers. Wireless Communications Towers and their associated facilities are subject to the height limits found in section 5.16.5.D. The height limits found in section 5.16.5.D may be modified, upon appeal to the Zoning Board of Appeals, to the minimum extent demonstrated as necessary to comply with operational needs and applicable federal regulations.

#### 5.18.5. Averaging an Existing Front Setback Line<sup>136</sup>

In single-family, two-family and the R4C zoning districts, where the average of the Established Front Setbacks of Structures on all adjacent lots that are located within 100 feet of either side of a lot and on which there are existing Buildings is greater than the required front setback specified in this Chapter, a Required Setback Line shall be provided on the lot equal to this greater average depth but not to exceed 40 feet. Where the average of the Established Front Setbacks is less than the minimum required front setback, the Required Setback Line may be reduced to this lesser average depth, but shall not be reduced to less than 10 feet. For the purpose of

<sup>133</sup> Expanded to address single-family attached units (townhouses and condos) in addition to terrace family dwellings.

<sup>134</sup> From current Sec. 5:56.

<sup>135</sup> Revised to clarify that variance standards apply to these decisions.

<sup>136</sup> From current Sec. 5:57.

computing the average: (a) an adjacent vacant lot shall be considered as having the minimum required front setback specified for the zoning district in which it is located; (b) lots on the opposite side of the street, or another block of the same street, and lots fronting on a different street shall not be included when computing the average; and (c) on corner lots, the average of the Established Front Setback for each frontage shall be computed separately.<sup>137</sup>

#### 5.18.6. C1A and C1A/R Districts; Required Setbacks and Open Space

Unless otherwise provided in this Chapter, the following regulations apply to Structures in the C1A Campus Business District and the C1A/R Campus Business Residential District.

##### A. C1A Districts--Commercial Uses

When a Building or Structure consists entirely of nonresidential uses, the following Required Setbacks shall be observed:

###### 1. Window Wall Required Setback

When (a) a Building or Structure exceeds 5 stories in height and (b) a side or rear wall of the Building or Structure does not face a street and (c) that side or rear wall is required by Chapter 100 to contain 1 or more windows, that wall shall be located not less than 10 feet from the Lot Line beginning at the bottom of the third Story. That Required Setback shall be increased in width by 2 feet for each 8 feet of total Building Height above the third Story. The maximum Required Setback, as determined by this formula, shall apply to the entire wall from the bottom of the third Story to the top of that wall.

###### 2. Non-window Wall Required Setback

When (a) a Building or Structure exceeds 5 stories in height and (b) a side or rear wall of the Building or Structure does not face a street and (c) that side or rear wall is not required by Chapter 100 to contain any windows, that wall shall be set back not less than 10 feet from the Lot Line beginning at the bottom of the third Story. That Required Setback shall be increased in width by 2 feet for each 8 feet of total Building Height above the third Story. The maximum Required Setback, as determined by this formula, shall apply to the entire wall from the bottom of the third Story to the top of that wall.

##### B. All Other Buildings

For all other Buildings and Structures covered in this section the setbacks shall be as follows:

###### 1. Window Wall Setback

When a side or rear wall of a Building or Structure does not face a street and the wall is required by Chapter 100 to contain 1 or more windows, that side or rear wall shall be set back not less than 10 feet from the Lot Line beginning at the bottom of the third Story, or at the bottom of the lowest residential Story, if the lowest residential Story is below the third Story. That setback shall be increased in width by 2 feet for each 8 feet of total Building Height above the third Story.

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<sup>137</sup> Changes to reflect actual practice and added clarity.

The maximum setback width determined by this formula shall apply to the entire wall from the bottom of the first residential Story to the top of that wall.

## **2. Non-window Wall Setback**

When the side or rear wall of a Building or Structure does not face a street and the wall is not required by Chapter 100 to contain any windows, the side or rear wall shall be set back not less than 10 feet from the Lot Line beginning at the bottom of the third Story. That setback shall be increased in width by 1 foot for each 8 feet of total Building Height above the third Story. The maximum setback width determined by this formula shall apply to the entire wall from the bottom of the third Story to the top of that wall.

### **5.18.7. Premiums <sup>138</sup>**

A premium is an increase in allowable Floor area to exceed the normal maximum usable Floor area in percentage of lot area established by this Chapter for Structures in the C1A, C1A/R, D1 and D2 Zoning Districts.

#### **A. Purpose**

The intent of incorporating premiums into this Chapter is:

1. To provide an incentive for residential Development in and in close proximity to the City's central Business core and to encourage affordable housing opportunities in situations where such opportunities might not otherwise be provided.
2. To encourage Development which reinforces pedestrian activity along streets within the central Business core and to achieve a greater mixture of land uses and intensities than might occur in the absence of such premiums in order to strengthen the economic vitality and diversity which is essential to a healthy and vibrant street life.
3. To provide an incentive for the Development of public spaces and pedestrian amenities and to encourage excellence in urban design through the provision of Open Space and landscaped Approaches to Buildings at appropriate corners.
4. To provide incentives for the development of energy-efficient and environmentally sustainable Buildings.
5. To encourage the inclusion of public parking in the Development of new private parking Structures.
6. To encourage the preservation of historic Buildings not currently located in an historic district.

#### **B. Premiums Not Intended for Historic Buildings**

Premiums shall not be used as a justification for the demolition of Buildings in historic districts in order to increase density.

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<sup>138</sup> From current Secs. 5:64 and 5:65.

### C. Availability

A premium is not available unless a Building and its surrounding site incorporates and maintains certain architectural features or land uses, or both, as designated by this Chapter.

### D. Floor Area Premium Options

In the C1A, C1A/R, D1 and D2 zoning districts, the normal maximum Floor area in percentage of lot area set forth in Table 5:17-2 may be exceeded on lots located entirely outside of an historic district and floodplain when amenities as described in this section are provided, subject to the premium limits designated in Table 5:17-4.

#### 1. General Regulations

- a. Premium options may be applied only to lots that are located entirely outside of an historic district, as designated by Chapter 103 and that contain no part of a 100-year floodplain, according to city's adopted floodplain map as designated by Chapter 100.
- b. Premium options apply only to any Structure located on the same lot as the amenities or land uses, or both, which give rise to the premium.
- c. The use of multiple options to acquire premiums is permitted.
- d. All amenities or land uses used to acquire a Floor area premium shall remain for the life of the Structure. The feature(s) shall only be diminished or discontinued if the additional gross Floor area is permanently removed or if another premium option(s) of at least equivalent Floor area value, as described in this section, is approved as part of a site plan.
- e. Any property that received additional Floor area through a premium option(s) which was lawfully established prior to, and lawfully continuing in existence on the effective date of this section (December 26, 2009), shall be deemed a conforming use and/or Structure. When modifications to any such property are requested, compliance with the current premium options is required.
- f. As a condition of receiving the additional Floor area through a premium option, the Building must comply with the following energy efficiency standards for the construction of all new Floor area:
  - i) A minimum of 2 points must be achieved under the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Energy & Atmosphere Credit No. 1. The most recent version in effect at the time of site plan approval shall be applied.
  - ii) Compliance with this requirement shall be verified and documented by the property owner using an industry standard software energy modeling tool (EQUEST or equivalent) prior to the issuance of building permits.
- g. Provisions implementing the premium options, and ensuring future compliance with the premium options, where applicable, shall be included

as a condition to the approval of a site plan, and in a Development agreement, or both, as determined by the City Attorney.

## **2. Residential Use Premium Option**

- a. In D1 and D2 districts, 0.75 square foot of Floor area in excess of the normal maximum usable Floor area in percentage of lot area shall be allowed for each square foot of Floor area, regardless of location within the Building, that is used for multiple-family dwellings. Every sleeping room in the Building shall have at least 1 window, sliding glass door, skylight, or other acceptable light transmitting media facing directly to the outdoors. The minimum total glazed area for every sleeping room shall be not less than 8% of the habitable Floor area of such room.
- b. If Dwelling Units constitute a portion of a mixed use Building, Dwelling Units must be completed and receive a certificate of occupancy in advance or at the same time as the certificate of occupancy for nonresidential use, or the property owner shall provide a performance bond for the residential use at the time the certificate of occupancy is requested, subject to the provisions of section 5.28.7.

## **3. Affordable Housing Premium Option**

In D1 and D2 districts, 3,000 square feet of Floor area in excess of the normal maximum usable Floor area in percentage of lot area shall be allowed for each on-site Dwelling Unit designated as affordable to lower income households. In the D1 district, the normal maximum usable Floor area in percentage of lot area with premiums (700%) may be exceeded, up to a maximum of 900%, to provide Dwelling Units designated as affordable to lower income households. Designated units shall have a minimum of 600 square feet of Floor area and shall remain affordable for the life of the Building. Provisions to implement the affordable housing premium option shall meet requirements for affordable units, as determined by the Office of Community Development.

## **4. Green Building Premium Option**

- a. In D1 and D2 districts, Floor area in excess of the normal maximum usable Floor area in percentage of lot area shall be allowed in the following increments for site and/or Buildings achieving the following levels of the U.S. Green Building Council Leadership in Energy and Environmental Development (LEED) Certification for new construction (NC) or existing Buildings. The most recent version in effect at the time of site plan approval shall be applied.
  - i) LEED Silver certification, with a minimum of 4 points in Energy & Atmosphere Credits No. 1 and 2: 50% of lot area
  - ii) LEED Gold certification, with a minimum of 6 points in Energy & Atmosphere Credits No. 1 and 2: 150% of lot area
  - iii) LEED Platinum certification, with a minimum of 8 points in Energy & Atmosphere Credits No. 1 and 2: 250% of lot area.

- b. Prior to issuance of any building permits, the applicant shall submit proof of LEED registration and a letter in a form satisfactory to the City Attorney stating his/her commitment to achieving the requested LEED Certification and to demonstrating compliance with that commitment.
- c. Within 6 months of receiving the final Certificate of Occupancy, the applicant shall submit to the PDSU Manager documentation of the credits earned from the U.S. Green Building Council and achievement of the requested certification. This time period may be extended by the PDSU Manager at his or her discretion for a period not to exceed 3 months if additional time is needed to complete the LEED Certification process.
- d. Failure to submit documentation from the U.S. Green Building Council within the required time period demonstrating the applicant's achievement of the requested LEED Certification premium shall be a violation of this ordinance. The penalty for such violation shall be \$500 per day from the date when the report was due to the date it is submitted.
- e. Failure to demonstrate full compliance with the applicant's commitment to achieve the requested LEED Certification premium shall be a violation of this ordinance. The penalty for each violation is an amount determined by the following formula:

$$P = [(LC-CE) / LC] \times CV \times GPUP$$

Where:

P is the penalty;

LC is the minimum number of credits to earn the requested LEED certification;

CE is the number of credits earned as documented by the U.S. Green Building Council report;

CV is the construction value, as set forth on the building permit for the new Structure;

GPUP, the Green Premium Utilization Percentage, is the greater of (i) 0.075; or (ii) a fraction, the numerator of which is LEED FAR, the denominator of which is TFAR.

LEED FAR is the minimum amount of Floor area proposed that is attributable to the Green Building Premium;

TFAR is the total Floor area proposed.

- f. Failure of the applicant to comply with the applicant's commitment to achieve the requested LEED Certification premium shall not affect the right to occupy any of the premium Floor area if a penalty is paid to the City in the amount determined in this section. No additional penalty shall be imposed for failure to comply with the commitment.
- g. If, within 90 days, or such longer period as the PDSU Manager may allow for good cause, the application shall demonstrate, through a supplemental report from the U.S. Green Building Council that is has made sufficient alternations to improvements to earn the requested LEED certification, or to earn more credits toward such a certification,



then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final.

#### **5. Historic Preservation Premium Option**

In D1 and D2 districts, additional Floor area of up to 50% of the lot area shall be allowed in excess of the normal maximum usable Floor area in percentage of lot area for a Development that preserves a historic resource, as defined in Chapter 103, that is currently listed on or eligible for the National Register of Historic Places and/or the State Register of Historic Sites. For purposes of calculating the maximum Floor area in percentage of lot area for the lot, the Floor area of the historic resource shall not be counted in the total.

#### **6. Pedestrian Amenity Premium Option**

##### **a. General**

In C1A, C1A/R and D1 districts, 10 square feet of Floor area in excess of the normal maximum usable Floor area in percentage of lot area shall be allowed for each square foot of pedestrian amenity improvements, up to a maximum of 8,000 square feet of additional Floor area. Any space in which a pedestrian amenity is used to acquire a premium shall not be used for the off-street parking of any vehicle, including, but not limited to, automobiles, bicycles, motor bikes, and scooters; nor shall such area be used for access drives, loading, or trash collection stations, except as noted in section 5.18.7.D.6.c.iv). Interconnections of pedestrian amenities between two or more lots are required to the extent feasible. A public Open Space used to acquire a premium shall be designed to avoid creation of isolated areas, to maintain lines of sight into the space from streets and major pedestrian walkways, and to provide a secure environment. Lighting shall be provided for public Open Space premiums which are open at night. Pedestrian amenities may include the options listed below.

##### **b. Inner Arcade**

###### **i) General**

A non-publicly owned, continuous, covered space that runs through or along a non-street side of a Building and connects public streets, arcades, Open Space, or sidewalks and is readily accessible and identifiable from the public street, arcade, or sidewalk. An arcade shall meet the following requirements:

- (a) Connect and be accessible from at least 2 public streets, or a public street and a public or non-public arcade fronting on another public street, or a public street and a public or non-public plaza fronting on another public street, or a public or non-public arcade and another public or non-public arcade fronting on another public street; or a public parking garage and a public street; and
- (b) Measure not less than 12 feet wide; and
- (c) Have an open and unobstructed headroom of at least 12 feet in height; and

(d) Remain open for use by the general public during all Business hours common in the area.

**ii) Art Work**

Art works may occupy up to 5 percent of the total arcade area if a minimum clearance of 6 feet for circulation is provided.

**c. Plaza**

A non-publicly owned continuous space, open to the sky for its entire width and length which fronts on a public street or public sidewalk, which is directly and conveniently accessible to the public at all times for passive recreational activities. Up to 2/3 of the surface area of the plaza may be occupied by features such as seating, permanent planting areas, water features or works of art. When landscaping is provided for a plaza amenity premium, a variety of living trees, shrubs, ground covers, and seasonal plantings shall be used and shall be located in permanently installed beds or planters serviced by automatic irrigation systems or in large containers, provided they cannot be readily removed. A plaza shall meet the following requirements:

- i) Have a minimum dimension of 10 feet; and occupy not less than 500 square feet; and
- ii) Be at the same Grade as the adjacent public sidewalk or not more than 24 inches above or below the Grade of adjoining public sidewalk for no more than 50% of either length of the sides adjoining and measured at the property line; and
- iii) Be readily identifiable from the public sidewalk; and
- iv) A portion of a plaza may be used for the parking of bicycles, provided the square footage of the plaza is increased beyond the minimum requirement at the rate of 96 square feet for each 2 bicycles parked, and permanently-installed bicycle facilities are provided; and
- v) When seating and/or tables are provided, they shall be available for use by the general public at all times the space is open.

**7. Public Parking Premium Option**

In the D1 district, the usable Floor area of above-grade parking Structures reserved for vehicular Parking Spaces in excess of the minimum requirement shall not be counted toward the maximum usable Floor area in percentage of lot area, up to a maximum of 200% of the lot area, if the following conditions are met:

- i) The Parking Spaces are made available to the general public;
- ii) The number, location, size, access, layout and design of the Parking Spaces meet standards for public parking, as determined by the Downtown Development Authority;
- iii) The property owner signs and records a Development agreement or other document approved by the City Attorney outlining the operating conditions for this parking.

## 5.19. Parking Standards<sup>139</sup>

### 5.19.1. Applicability

- A. No new Building shall be erected unless the parking for bicycles and motor vehicles required by this section 5.19 is provided.
- B. No Building shall be altered so the usable Floor area is increased unless the minimum required parking for the entire Building is provided.
- C. The minimum parking required by this Chapter shall be provided for the entire Building if the use classification or number of Dwelling Units in the Building is changed and the Parking Space required for the new use exceeds that required for the previous use.
- D. The parking requirements of this Chapter shall not apply to Buildings owned or leased by a governmental unit or agency or by a public educational institution as long as they are used for governmental purposes. When such property is conveyed or otherwise made available for a private use, all the parking required by this Chapter for that use must be provided.
- E. The area outside a Building occupied by Bicycle Parking Spaces shall be considered usable Open Space and be included in the calculation of usable Open Space of a site. When Bicycle Parking Spaces are provided within a Building, the Floor area used for Bicycle Parking Spaces shall not be included in the Floor area used for calculating vehicle parking requirements.

### 5.19.2. Required Parking

Each land use listed in Table 5-19-1 shall provide the amount of off-street parking indicated in that table, unless those requirements are modified by another provision of this Chapter, in which case the modifications shall apply.<sup>140</sup> Parking for vehicles and bicycles in the amount specified in this section shall be provided on the same lot as the Principal Use or on a separate lot within 500 feet of the Principal Building if zoned "P" or zoned for the same uses as allowed on the property of the Principal Use. No lot zoned other than "P" shall have parking as its Principal Use, excepting lots containing approved parking lots or Structures in the D1 or D2 districts. An off-site permanent parking easement must be recorded if required parking is provided on another lot. An off-site parking easement may not include Parking Spaces or Bicycle Parking Spaces required to keep another property in compliance with this Chapter. Any fraction of a required Parking Space or Bicycle Parking Space shall be considered a full space. Required bicycle parking shall meet the design requirements for Class A, B and C facilities provided in section 5.19.8. Property

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<sup>139</sup> Text for this section from Chapter 59, *Off-Street Parking*, except for the definitions in Sec. 5:161 that have been relocated to Article VIII. Current Chapter 56 *Prohibited Land Uses* includes a restriction reading "No person shall park overnight or permit the parking overnight of any House Trailer upon any public highway, street, alley, park or other public place within the city" but restrictions on parking on public property (rather than private property) are generally not included in a development code. This restriction will be added to the City's public streets regulations.

<sup>140</sup> This first sentence is new in order to reflect current practice.

owners may provide a higher class of bicycle parking facility than is required by this section.

<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>141</sup></b>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
<b>RESIDENTIAL USES</b>				
<b>Household Living</b>	Adult Foster Care	1 space per Dwelling Unit	None	None
	Dwelling, Assisted Living	For R4A: 2 spaces per Dwelling Unit For R4B, R4C, R4D and R4E: 1 ½ spaces per Dwelling Unit For any nonresidential district: 1 space per Dwelling Unit	1 space per 5 Dwelling Units	A 50% C 50%
	Dwelling, Multi-Family	For R4A: 2 spaces per Dwelling Unit For R4B, R4C, R4D, and R4E: 1 ½ spaces per Dwelling Unit In any nonresidential district: 1 space per Dwelling Unit	1 space for 5 Dwelling Units	A 50%, C50%
	Dwelling, Single Family	1 space per Dwelling Unit	None	None
	Dwelling, Townhouse	2 spaces per Dwelling Unit	1 spacer per 5 Dwelling Units	A 50%, C 50%
	Dwelling, Two Family	1 ½ spaces per Dwelling Unit	None	None
	House Trailer Park	1 space per Dwelling Unit	None	None
<b>Group Living</b>	Emergency Shelter	None	None	
	Fraternities, sororities, student cooperatives	1 space for each 5 beds	1 space per 2 beds	A 50% B 50%
	Group Housing	1 space for each 3 beds	1 space per 5 beds	A 50% B 50%
	Guest House	1 space for each 3 beds	1 space per 5 beds	A 50% B 50%
<b>PUBLIC/INSTITUTIONAL USES</b>				
<b>Airports, Municipal</b>		Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq ft. of floor area	A 30% C 70%
<b>Community and Cultural</b>	Cemetery	None	None	
	Club Headquarters or Community Center	1 space per 200 sq. ft. of Floor Area	1 spacer per 1,000 sq. ft. of Floor Area	C 100%
	Conference Center	1 space per 100 sq. ft. of Floor area	1 spacer per 1,000 sq. ft. of Floor Area	C 100%

<sup>141</sup> The uses in parking table are organized to be consistent with those in the use table (please see use table for explanation of new use categories). All current parking standards (Sec. 5:167) have been carried forward but have been reassigned to the reorganized set of uses, except that parking standards for current uses that were not carried forward as distinct uses are not included. Uses that do not yet have an adopted parking standard but should probably have one have also been included in the table.

TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED <sup>141</sup>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
	Correctional Facility	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area used for office and administration purposes, none for floor area used for any other purpose [1]	1 space per 3,000 sq. ft. of Floor Area used for office and administrative purposes, none for floor area used for any other purpose	A 30% C 70%
	Museum, Art Gallery	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Funeral Services	1 space per 100 sq. ft. of Floor area used for viewing or services. Site must provide a separately designated off-street assembly area for the lead car, hearse, and family vehicle to be used in funeral processions so that these vehicles do not interfere with off-site traffic or access to required Parking Spaces	None	None
	Government Offices and Courts	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Library	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Park, Recreation and Open Space	None	None	
	Religious Assembly	1 space per 3 seats or 1 space per 6 feet of pew. Public off-street Parking Spaces within 1,000 feet of the site may be counted if approved as part of a site plan	1 space per 50 seats or 100 feet of pew	C 100%
Day Care	Adult Day Care Center	1 off-street parking space per caregiver required to staff facility at the state-licensed capacity. 2 plus 1 additional on or off-street parking spaces space within 250 feet of the lot for each 20 adults that the facility is licensed to care for.	1 space per 10 caregivers	B 100%
	Child Care Center	1 off-street parking space per caregiver required to staff facility at the state-licensed capacity. 2 plus 1 additional on or off-street parking spaces space within 250 feet of the lot for each 20 adults that the facility is licensed to care for.	1 space per 10 caregivers	B 100%
Educational	Institutions of Higher Learning, Private	5 spaces per classroom	5 spaces per classroom	C 100%
	Institutions of Higher Learning, Public	None	None	
	School, Private	High School: 5 spaces per classroom Elementary and Middle Schools: 3 spaces per classroom	5 spaces per classroom	C 100%
	School, Public	As required by the State	As required by State	
	School, Trade/Industrial	5 spaces per classroom	5 spaces per classroom	C 100%

<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>141</sup></b>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
<b>Health Care</b>	Hospital	1 space for each 6 beds	1 space per 60 beds	B 100%
	Nursing Care Facility <sup>142</sup>	1 space for each 6 beds	1 space per 60 beds	B 100%
<b>COMMERCIAL USES</b>				
<b>Lodging</b>	Bed and Breakfast	1 space per room	1 space per 4 rooms <sup>143</sup>	B 100%
	Hotel	1 space per room	1 space per 30 rooms	A 100%
<b>Recreation, Entertainment, and Arts</b>	Adult Entertainment Business	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [ 1 ]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Artist Studio	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
	General Entertainment	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [ 1 ]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Indoor Recreation	Athletic Club/Roller Rink = 1 space per 200 sq. ft. of Floor area	1 space per 1,000 sq. ft. of Floor Area	B 100%
		Bowling Alley = 5 spaces per alley	1 space per 5 alleys	C 100%
		Indoor Court Game Facilities = 1 space per 1,000 sq. ft. of Floor area	1 space per 2,000 sq. ft. of Floor Area	B 100%
	Outdoor Recreation	Swimming Club, Private (Building) = 1 space per 200 sq. ft. of Floor Area	1 space per 1,000 sq. ft. of Floor Area	C 100%
		Stadia Auditorium = 1 space per 3 seats or 1 space per 6 feet of bench	1 space per 100 seats or 200 feet of bench	C 100%
Enclosed Theater = 1 space for each 3 seats		1 space per 150 seats	C 100%	
<b>Sales</b>	Automobiles, Motorcycles, Recreational Vehicles, Equipment (Sales and Rental)	1 space per 310 sq. ft. of Floor Area	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Fueling Station	1 space per 200 sq. ft. of Floor area	1 space.	C
	Outdoor Sales, Permanent	Minimum of 1 space per 310 sq. ft. of area devoted to outdoor sales, maximum of 1 space per 265 sq. ft. of area devoted to outdoor sales [ 1 ]	1 space per 3,000 sq. ft. of area devoted to outdoor sales	B 50% C 50%
	Medical Marijuana Dispensary	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [ 1 ]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Restaurant, Bar, Food Service	1 space for each 100 sq. ft. of Floor area	1 space per 750 sq. ft. of Floor Area	B 50% C 50%
	Retail Sales, General Merchandise	Retail stores and Retail Centers less than 300,000 sq. ft. of Floor area = Minimum of 1 space per 310 sq. ft. of Floor area; maximum of 1 space per 265 sq. ft. of Floor area [ 1 ]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%

<sup>142</sup> Parking standards from existing "Convalescent Homes."

<sup>143</sup>

<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>141</sup></b>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
		Retail stores and Retail Centers between 300,000 – 600,000 sq. ft. of Floor area = Minimum of 1 space per 285 sq. ft. of Floor area; maximum of 1 space per 250 sq. ft. of Floor area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
		Retail stores and Retail Centers more than 600,000 sq. ft. of Floor area = Minimum of 1 space per 265 sq. ft. of Floor area; maximum of 1 space per 235 sq. ft. of Floor area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
		Furniture, Home Furnishings and Appliance Stores = 1 space per 600 sq. ft. of Floor area	1 space per 7,500 sq. ft. of Floor Area	C 100%
	Wholesale, Resale, Building Material and Supplies	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor area	C 100%
<b>Service and Repair</b>	Automobile, Truck, Construction Equipment Repair	1 space per 200 sq. ft. of Floor area	1 space.	C
	Contractors, General Construction, and Residential Building	1 space per 333 sq. ft. of Floor Area	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Laundry, Cleaning, and Garment Services	Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
	Parking Lot or Structure	None	1 space per 10 parking stalls	A 30% C 70%
	Personal Services	1 space per 100 sq. ft. of Floor area	1 space per 750 sq. ft. of Floor Area	C 100%
	Vehicle Wash	Automatic: 1 space per 500 sq. ft. of Floor area Self serve: 1 space per bay	1 space.	C
	Veterinary, Kennels, and Animal Boarding	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
<b>Office and Research</b>				
<b>Office-Type</b>	Bank, Credit Union, Financial Services	Minimum of 1 space for each 220 sq. ft. of Floor area and maximum of 1 space per 180 sq. ft. of Floor area [1]	1 space per 2,000 sq. ft. of Floor Area	C 100%
	Office, General	Minimum of 1 space per 333 sq. ft. of Floor area; maximum of 1 space per 250 sq. ft. of Floor area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Medical/Dental	Minimum of 1 space per 220 sq. ft. of Floor area; maximum of 1 space per 180 sq. ft. of Floor area [1]	1 space per 1,500 sq. ft. of Floor Area	A 30% C 70%
	Nonprofit Corporations	Minimum of 1 space per 333 sq. ft. of Floor area; maximum of 1 space per 250 sq. ft. of Floor area [1] <sup>144</sup>	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
<b>Research and Development</b>	Laboratories	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
	Medical Laboratory	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%

<sup>144</sup> Applied the same parking standards as “Office, General.”

<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>141</sup></b>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]	REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS	
Research/Development	1 space per 600 sq. ft. of Floor area	1 spacer per 6,000 sq. ft. of Floor Area	B 100%	
<b>TRANSPORTATION</b>				
Railroad and Public Transportation Rights-of-Way	None	None		
Transit Center, Station, or Depot	1 space per 333 sq. ft. of Floor Area used for offices or administration of center, station or depot	1 space per 3,000 sq. ft. of Floor Area used for offices or administration of center station or depot	A 30% C 70%	
Transportation Facilities	None	None		
<b>Industrial</b>				
<b>Agricultural</b>	Agriculture/ Greenhouse	None	None	
	Barns	None	None	
	Borrow Pits	None	None	
	Medical Marijuana Cultivation Facility	Minimum of 1 space per 333 sq. ft. of Floor Area used for offices, maximum of 1 space per 250 sq. ft. of Floor Area used for offices. 1 space per 2,000 sq. ft. of Floor Area used for cultivation.	1 space per 3,000 sq. ft. of Floor Area	B 100%
<b>Manufacturing, Processing, Assembly, and Fabrication</b>	Asphalt, Concrete Mixing Plant, Sand and Gravel Pit	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Coal and Coke Dealer	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Heavy Manufacturing	1 space per 1,500 sq. ft. of Floor area <sup>145</sup>	1 space per 25,000 sq. ft.	B 100%
	Laundry and Dry Cleaning Plant	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Light Manufacturing	1 space per 1,500 sq. ft. of Floor area <sup>146</sup>	1 space per 25,000 sq. ft.	B 100%
	Oil and Gas Well	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Pilot Manufacturing	1 space per 600 sq. ft. of Floor Area	1 space per 6,000 sq. ft. of Floor Area	B 100%
	Scrap and Waste Material	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
	Slaughterhouse	1 space per 1,500 sq. ft. of Floor Area	1 space per 25,000 sq. ft. of Floor Area	B 100%
<b>Utilities and Communications</b>	Broadcasting Facility	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Data Processing and Computer Centers	Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
	Electric, Gas, and Sanitary Services	None	None	

<sup>145</sup> Used parking standard from current "Manufacturing" use.

<sup>146</sup> Used parking standard from current "Manufacturing" use.



<b>TABLE 5:19-1 OFF-STREET PARKING SPACES REQUIRED<sup>141</sup></b>				
USE [SEE SEC. 5.19.3 FOR USES IN D1 AND D2 DOWNTOWN DISTRICTS:]		REQUIRED PARKING SPACES	REQUIRED BICYCLE SPACES	REQUIRED BICYCLE CLASS
	Power and Fuel Rights-of-Way	None	None	
	Wireless Communication Facilities	None	None	
<b>Warehousing and Storage</b>	Outdoor Storage	None	None	
	Warehousing and Indoor Storage	1 space for 2,000 sq. ft. of Floor area	1 space per 30,000 sq. ft.	B 100%
<b>ACCESSORY USES<sup>147</sup></b>				
Bed and Breakfast, Accessory		1 space, plus that required for the principal use	1 space, plus that required for the principal use	B 100%
Community Recreation		1 space per 200 sq. ft. of Floor Area	1 space per 1,000 sq. ft. of Floor Area	C 100%
Dwelling Unit, Accessory		3 spaces on the lot	None	
Dwelling Unit, Manager's		1 space per dwelling unit	None	
Family Day Care Home		None	None	
Group Day Care Home		1 space per caregiver not living in the dwelling, plus that required for the principal use, and 2 off-street or on-street parking spaces within 250 feet of the lot for drop off and pick up.	None	
Home Occupation		None	None	
Management/Maintenance Office and Storage		Minimum of 1 space per 333 sq. ft. of Floor Area, maximum of 1 space per 250 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	A 30% C 70%
Restaurant, Bar, Food Service		1 space per 100 sq. ft. of Floor Area	1 space per 750 sq. ft. of Floor Area	B 50% C 50%
Retail Sales, General Merchandise		Minimum of 1 space per 310 sq. ft. of Floor Area, maximum of 1 space per 265 sq. ft. of Floor Area [1]	1 space per 3,000 sq. ft. of Floor Area	B 50% C 50%
Roadside Stand		Two spaces.	None	
<b>TEMPORARY USES</b>				
Christmas Tree Sales		None.	None.	
Outdoor Sales, Temporary by Others		By Special Exception		
Special Event Sales		By special ordinance		
NOTES:				
[1] Additional parking may be provided if it does not increase Impervious Surfaces beyond that which would be provided by meeting the maximum parking required. Examples of additional parking may include, but not be limited to, under-Structure parking, Rooftop parking, or Structured parking above a surface parking lot.				
[2] Other uses: parking and bicycle spaces for uses not specified shall be determined by the PDSU Manager, based upon requirements for similar use.				

### 5.19.3. Special Parking Districts

Lots located in the D1 or D2 downtown zoning districts are considered a special parking district and are subject to the following standards:

<sup>147</sup> Only Accessory Uses that would likely require parking are included.

- A. No off-street motor vehicle parking is required in the special parking district for Structures which do not exceed the normal maximum permitted usable Floor area or for Structures zoned PUD with usable Floor area which does not exceed 300 percent of the lot area. Structures which exceed the normal maximum usable Floor area by providing Floor area premiums, or PUD-zoned Structures that exceed 300 percent of lot area, shall provide Parking Spaces for the usable Floor area in excess of the normal maximum permitted. This parking shall be provided at a rate of 1 off-street Parking Space for each 1,000 square feet of usable Floor area.
- B. Each Parking Space reserved, Signed and enforced for a car-sharing service may count as 4 required motor vehicle Parking Spaces.
- C. Off-street bicycle parking is required for residential uses in the special parking district at a rate of 1 off-street bicycle space for each 2,500 square feet of usable Floor area and shall be provided in compliance with the requirements of sections 5.19.2 and 5.19.9.A for Class A spaces. Off-street bicycle parking is required for nonresidential uses in the special parking district at a rate of 1 off-street Bicycle Parking Space for each 10,000 square feet of usable Floor area and shall be provided in compliance with the requirements of sections 5.19.2 and 5.19.9.A.3 for Class C spaces.
- D. The required bicycle or motor vehicle parking shall be provided on-site, off-site as described in this section, or by the payment of a contribution in lieu of required parking consistent with the formula adopted by City Council, or any combination thereof, consistent with the requirements of this section. The per-space payment shall be that required by City Council resolution at the time of payment.
- E. Approval of a contribution in lieu of required motor vehicle or bicycle parking shall be conditioned upon the execution of a Development agreement. Payment of the contribution in lieu for required parking shall be made prior to the issuance of a certificate of occupancy.
- F. The applicant may request, as part of a site plan, to meet all or a portion of the bicycle parking requirements by installing Bicycle Parking Spaces in the Public Right-of-Way and/or a public parking Structure. City Council may approve this request if there is sufficient space in the right-of-way and/or parking Structure and the location is convenient to bicycle users.
- G. Parking Structures that are available solely to residents or employees of the Building are not subject to the stall and aisle standards of section 5.19.8.

#### 5.19.4. Access

The Parking Spaces and Bicycle Parking Spaces required by this Chapter shall be accessible to a public street or alley and shall be kept available for the use of occupants, employees or other users of the building for which the space was provided. Nothing in this section shall preclude a reasonable charge to the occupants of the building for use of the Parking Spaces or Bicycle Parking Spaces.

**5.19.5. Deferred Parking Requirements**

If the Parking Spaces or Bicycle Parking Spaces required by this Chapter are determined by the owner to be in excess of the immediate need for parking, the provision of up to 40% of the required Parking Spaces or Bicycle Parking Spaces may be deferred if shown on an approved site plan. If the PDSU Manager determines that some or all of the deferred Parking Spaces or Bicycle Parking Spaces are needed, these spaces must be installed. Any person aggrieved by this determination may appeal as provided in section 5.28.10.

**5.19.6. Barrier Free Parking**

All parking lots shall have barrier free Parking Spaces as required by and in conformity with state law (MCL 125.1352).

**5.19.7. Use of Off-street Parking Facilities**

- A. Motor vehicles shall only be parked on a driveway, in a Structure or within an approved Parking Space or lot. This subsection shall not be applicable on those days when football games are played in The University of Michigan stadium. It shall also be inapplicable to persons who have obtained a permit issued by the city administrator for parking in the Front Open Space during the Ann Arbor Street Art Fair. Such permits shall be issued in accordance with regulations adopted by the City Council for the purpose of ensuring public safety and preserving the attractive appearance of the city.
- B. Required off-street Parking Spaces or Bicycle Parking Spaces shall not be obstructed by storing objects, Structures or vehicles that are inoperative, unregistered or for sale.
- C. In residential zoning districts, trailers, boats, campers and similar vehicles must be stored in a Structure, on a Driveway or in a location other than the Front Open Space.
- D. In residential zoning districts, no more than 2 commercially-licensed vehicles shall be kept in the open on the vehicle owner's private property or within 500 feet of the property on a public street.
- E. In residential zoning districts, no vehicle over 22 feet long or a commercial vehicle licensed for an empty weight of more than 5,500 pounds shall be parked anywhere on a lot.

**5.19.8. Design of Vehicle Parking Facilities**

Parking Structures, parking lots and Parking Spaces, shall comply with the following design standards:

- A. Vehicular parking Structures, lots and spaces shall not be located in the Front Open Space. No space within a parking Structure or lot may be closer to the street than the front face of a Building.<sup>148</sup>
  - 1. Exceptions:

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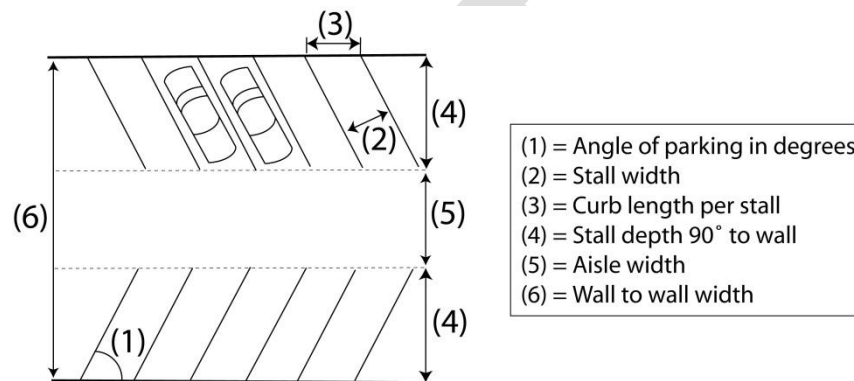
<sup>148</sup> Text added per ORD-10-34-Ch.55.

- a. Sites with existing vehicular parking Structures, lots, and spaces approved or constructed prior to January 3, 2011 and located closer to a street than the front face of a Building.
  - b. Sites where an addition is proposed to an existing Building.
  - c. Sites with more than one Front Lot Line; the requirements of paragraph A in this section shall apply to only one Front Lot Line. For all other Lot Lines abutting streets, parking shall be located behind the minimum front setback requirement, per this Chapter.
  - d. Multiple-family uses having more than 100 feet of Street Frontage, more than 20,000 square feet of land area, and more than 20 Dwelling Units may have vehicular parking lots and spaces located in the front Open Space but behind the minimum front setback line as required in section 5.17.
  - e. Churches, child care centers and schools with more than 100 feet of Street Frontage and more than 20,000 square feet of land area may be permitted to have vehicular parking lots and spaces located in the Front Open Space but behind the minimum front setback line as required in section 5.17 if approved as part of a Special Exception Use review.
- B. In Residential Districts, no Parking Lot shall be located closer than 10 feet to any Building used for a Dwelling Unit on the first Floor.<sup>149</sup>
- C. Parking lots shall have adequate maneuvering area and access to permit use of all Parking Spaces without moving other vehicles and prevent backing into a public street. Parking Spaces shall be clearly marked and the lots shall conform to the minimum stall and aisle standards in Table 5:19-2 (See also figure below):

TABLE 5:19-2: STALL AND AISLE STANDARDS					
(1)	(2)	(3)	(4)	(5)	(6)
ANGLE OF PARKING (DEGREES)	STALL WIDTH [A] (FT.)	CURB LENGTH PER STALL (FT.)	STALL DEPTH 90° TO WALL [B] (FT.)	AISLE WIDTH [C] (FT.)	WALL TO WALL WIDTH (FT.)
<b>REGULAR CAR SPACES</b>					
0	9	20	9	12	
45	9	12 ft. 7 in.	19 ft. 5 in.	12	51
60	9	10 ft. 4 in.	20 ft. 5 in.	16	57
75	9	9 ft. 3 in.	20	20	60
90	9	9 ft.	18	22	58
<b>SMALL CAR SPACES [D]</b>					
0	8	18 ft.	8	12	
45	8	11 ft. 3 in.	17	12	46
60	8	9 ft. 2 in.	17 ft. 9 in.	14	49 ft. 8 in.
75	8	8 ft. 3 in.	17 ft. 5 in.	17	52

<sup>149</sup> Existing paragraph on Parking Space dimensions was deleted because content is addressed elsewhere, mostly in the footnotes of table 5:19-2.

90	8	8	16	20	52
<p>NOTES:</p> <p>[A] Stall width shall be increased by 1 foot for those spaces which are adjacent to a Fence, wall or enclosure. Barrier free Parking Spaces must be designated as required by and in conformity with state law.</p> <p>[B] Stalls which allow for vehicle overhang (next to curbs) can be reduced in depth by 2 feet.</p> <p>[C] In lots that are designed for both regular and small cars, the regular size aisle width shall be used.</p> <p>[D] Up to 30% of Parking Spaces in a Parking Lot may be designated as small car spaces and clearly signed for "small cars".</p>					



D. Driveways and parking lots shall be surfaced with asphalt, concrete, porous pavement, pavers or brick in accordance with standard engineering practices. However, driveways and parking areas which serve single or two-family dwellings with Vehicular Use Areas of less than 1,200 square feet and less than 5 Parking Spaces may be surfaced with gravel or other similar material in accordance with standard engineering practices. Approval of such surfacing shall be conditioned upon adequate coverage and barriers sufficient to confine the material.

E. Parking lots shall be equipped with curbs or other barriers to confine vehicles to the parking lot. Driveways, parking lots and Structures shall be constructed and maintained in a manner to prevent drainage nuisances and the formation of potholes and must be kept reasonably free of snow and ice.

**5.19.9. Design of Bicycle Parking Facilities<sup>150</sup>**

No person shall construct or establish a Bicycle Parking Space except pursuant to a building permit issued upon the submission of plans showing compliance with the standards below.

<sup>150</sup> Text from 5:168.1. Lighting provisions have been moved to 5:24 *Lighting*.

### A. Facility Standards

When bicycle spaces are required by this Chapter, the total number of spaces shall be provided by 1 or a combination of the following 3 classifications of bicycle facilities in accordance with section 5.19.2.

#### 1. Class A - Enclosed Bicycle Storage

Enclosed bicycle storage shall be in the form of individual enclosed storage lockers, an enclosed bicycle parking shed, a room within a Building that contains individual storage lockers or rack spaces, or individual private garages. All types of enclosed bicycle storage shall be easily accessible, secure, well lighted and weather resistant. If racks within a room are used, 1 standard Bicycle Parking Space shall consist of a space not less than 2 feet wide by 6 feet long with a minimum clear access aisle width of 3 feet. Credit can be extended for creative designs that use the available space more efficiently and store the equivalent number of bicycles in a smaller area. Asphalt, concrete, porous pavement, pavers or brick shall connect the enclosed bicycle storage area to a sidewalk or driveway. Enclosed bicycle storage constructed exterior to a Building shall comply with the zoning regulations for accessory Structures.

#### 2. Class B - Covered Bicycle Racks

Covered bicycle racks, such as hoop style racks or another type of rack that meets these standards, shall be securely anchored in pavement and designed so that both wheels and the frame of a bicycle may be securely locked with either a chain, cable or padlock. One standard Bicycle Parking Space shall consist of a space not less than 2 feet wide by 6 feet long with a minimum clear access aisle width of 3 feet. The PDSU Manager may approve alternative designs that use the available space more efficiently and store the equivalent number of bicycles in a smaller area.<sup>151</sup> Pavement shall meet city public services department standards. The racks shall be covered by a building overhang or a self-standing cover with a minimum clearance of 7 feet above grade. Asphalt, concrete, porous pavement, pavers or brick shall connect the covered bicycle racks to a sidewalk or driveway. All covered bicycle racks shall comply with zoning regulations for accessory Structures.

#### 3. Class C - Fixed Bicycle Racks

Fixed bicycle racks, such as hoop style racks or another type of rack that meets these standards, shall be securely anchored in pavement and designed so that both wheels and the frame of a bicycle may be securely locked with a chain, cable or padlock. One Bicycle Parking Space shall consist of a space not less than 2 feet wide by 6 feet long with a minimum clear access aisle width of 3 feet. Pavement shall meet city public services department standards. Asphalt, concrete, porous pavement, pavers or brick shall connect the fixed bicycle racks to a sidewalk or driveway.

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<sup>151</sup> Revised to clarify that this requires PDSU Manager approval.

## B. Location Criteria

Exterior bicycle parking facilities shall be placed in close proximity to main Building entrances and in a location that is visible and easily accessible. A physical barrier, designed to prevent motor vehicles from driving into bicycle parking areas, shall be provided between bicycle and motor vehicle parking when bicycle parking areas are located within a parking Structure or lot. Bicycle parking in parking Structures shall be located on the street level and near an entrance and public sidewalk.

### 5.19.10. Driveways

A. Driveways leading to Parking Spaces and lots shall meet the following standards:

1. The number of driveways permitted shall correspond to the number of Openings permitted as provided in section 5.21.<sup>152</sup>
2. Single and Two-family Dwellings: The width of a Driveway serving a single or Two-Family Dwelling shall be between 10 and 24 feet. A Driveway less than 10 feet in width and no more than 18 feet in depth may be installed in the Front Open Space for single and two-family dwellings on parcels without adequate space for off-street parking anywhere else on the parcel.<sup>153</sup>
3. All Other Uses: For uses other than single or two-family dwellings, the width of one-way driveways shall be between 10 and 15 feet, and the width of two-way driveways shall be between 18 and 24 feet.
4. All driveways shall lead to a garage, carport, Parking Space or Structure meeting the requirements of this Chapter, or back onto a street by means of the original Opening or a second approved Opening .
5. A Driveway leading to an enclosed space may be widened to the width of the Parking Space if the Driveway does not exceed 30% of the Front Open Space.
6. Driveways providing access to property in nonresidential zoning districts may not be located in residential zoning districts.

## 5.20. Landscaping, Screening, and Buffering<sup>154</sup>

### 5.20.1. Purpose

This section is intended to:

- A. Improve the appearance of off-street Vehicular Use Areas, property abutting public rights-of-way, private streets, and certain shared driveways within easements, thereby reducing conditions which lead to urban blight.
- B. Require buffering between conflicting land uses and conflicting zoning districts.
- C. Promote the public health, safety and general welfare by reducing noise and air pollution, light glare, soil Erosion, and thermal heating of the environment.

<sup>152</sup> Added for clarity and to reflect current practice.

<sup>153</sup> Added for clarity and to reflect current practice.

<sup>154</sup> Text from Chapter 62: *Landscaping and Screening* and Chapter 40; *Trees and Vegetation*, and including significant amendments from Ord. 11-09.

- D. Reduce the negative impacts of stormwater runoff by reducing Impervious Surface area and retaining greater amounts of stormwater on site. Improve the quality and safety of pedestrian movement within paved areas and along public rights-of-way.
- E. Protect and preserve the appearance, character and value of the surrounding neighborhoods and Parks.
- F. Promote preservation of existing significant vegetation, the use of non-invasive plant species, and the selection of plant species based on site conditions including soil type, light exposure, presence of utilities, and salt tolerance.

#### 5.20.2. **Applicability**

The provisions of this Chapter shall require landscaping and screening on the site in the following cases:

- A. Whenever a site plan is required by this Chapter; or
- B. Whenever the estimated expense of construction exceeds 50% of the appraised replacement cost of the entire Building or Structure, exclusive of foundation, prior to its improvement (as determined by the building official); or
- C. Whenever a shared Driveway is provided within an easement in accordance with this Chapter.

#### 5.20.3. **Vehicular Use Area Landscaping and Screening**

Vehicular Use Areas shall have the following landscaping and screening:

##### **A. Right-of-Way Screening<sup>155</sup>**

Vehicular Use Areas that are visible from a Public Right-of-Way shall include the following between the Vehicular Use Area and the right-of-way. This section applies to public alleys only when the public alley separates a residential use or zone from a Vehicular Use Area.

1. A landscaped buffer strip at least 10 feet in width. If there is an existing Building or Vehicular Use Area located within the required 10 foot landscape buffer strip, the landscape buffer strip may have an average of 10 feet in width over the entire length of the required buffer area, with no specific location along the buffer being less than 5 feet in width.
2. One deciduous shade or evergreen tree must be installed in the landscape buffer area for every 30 feet or fraction of 30 feet of Public Right-of-Way Street Frontage of the Vehicular Use Area. Arrangement of trees in clusters or groupings is encouraged, but trees shall not be spaced more than 50 feet apart on center.
3. A hedge, dense shrub planting, landform berm, wall or combination of those features forming a continuous screen at least 30 inches in height above the Vehicular Use Area grade, is required in the buffer strip area to provide maximum screening of the Vehicular Use Area. Arrangement of shrubs in

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<sup>155</sup> Includes amendments from Ord. 11-09. Materials on Fueling Station screening are a now a use-specific standard for that use.



clusters or groupings is encouraged. If a wall is used, it shall be set back at least 4 feet from the property line with one 30-inch high shrub provided for every 4 lineal feet, planted on the street side of the wall.

### B. Interior Landscape Islands

Vehicular Use Areas greater than 3,300 square feet shall contain protected landscape islands located entirely within the perimeters of the Vehicular Use Area, for the purpose of breaking up the expanse of pavement. Multiple level parking Structures are not required to have interior landscape islands but shall comply with all of the other requirements of this Chapter.

The following landscape island requirements must be met:

1. Within the interior of the Vehicular Use Area, landscape islands shall be provided to meet or exceed the ratios shown in Table 5:20-1:

<b>VEHICULAR USE AREA</b>	<b>LANDSCAPE/VEHICULAR USE AREA RATIO</b>
3,300–49,999 square feet	1:20 square feet
50,000–149,999 square feet	1:15 square feet
150,000 square feet and over	1:10 square feet

2. To meet the requirements of this section, each interior landscaped island shall have at least 165 square feet in area, a minimum dimension of 8 feet in any direction, and shall include at least one deciduous shade tree. Combining landscape islands to form larger landscaped areas is encouraged.
3. Any landscaped area located outside the perimeter of the Vehicular Use Area will not count toward satisfying this requirement. Landscaped areas within the corners of the vehicular use area may be counted, up to a maximum of 200 square feet for each corner, if at least one deciduous shade tree is located within that area. A minimum of 50 percent of the perimeter of the landscaped corner must abut the Vehicular Use Area to be considered an interior landscape island.
4. A maximum of 15 Parking Spaces are allowed in a parking row without a landscape island break. If landscape islands have been combined to form larger landscaped areas and are used for Bioretention then 20 continuous Parking Spaces will be permitted.
5. The total number of trees required in the interior landscaped island shall be calculated and provided at a rate of one deciduous shade tree for each 250 square feet or fraction of 250 square feet of required interior landscaped island.
6. Additional credit toward required interior trees may be obtained for existing trees that measure a minimum of 8 inches in Diameter at Breast Height (DBH) that are preserved within the Vehicular Use Area or within 15 feet of and on the same parcel as the Vehicular Use Area. Each 8 inches or fraction

of 8 inches of DBH of any healthy existing tree that is preserved may be deemed equivalent to one required interior island tree. Up to 50% of the requirements of subsection 5.20.3.B.5 may be satisfied by preserving existing trees which meet the standards of this subsection. Additional credit allowed by this subsection is in addition to the credit allowed for existing vegetation used to meet the requirements of this Chapter per section 5.20.7.L.

7. When the total area required in interior landscape islands for all of the Vehicular Use Areas on site exceeds 750 square feet, at least 50% of the area in the required interior landscape area must be depressed Bioretention areas and utilized for storm water management. Depressed Bioretention areas can be used to meet the stormwater pretreatment requirements in section 5.22. When the total area required in interior landscape islands for all of the Vehicular Use Areas on site is less than 750 square feet, interior landscape islands in the form of depressed Bioretention areas that are utilized for storm water management are encouraged.
8. Provision shall be made for snow pile storage locations such that they do not damage required plantings nor diminish required parking capacity.

#### 5.20.4. Conflicting Land Use Buffers

A. VUAA conflicting land use buffer shall be provided under the following conditions:

1. A Vehicular Use Area adjacent to a public park or land principally used or zoned for residential purposes.
2. A refuse/recycling container adjacent to a public park or land principally used or zoned for residential purposes.
3. The portion of a parcel zoned O, RE, ORL, C, or M abutting a public park or parcel principally used or zoned for residential purposes.
4. The portion of a parcel zoned R3 or R4 adjacent to a parcel principally used or zoned for residential purposes R1, R2 or a public park.

B. The conflicting land use buffer shall consist of the following:

1. A landscaped buffer strip at least 15 feet wide. If there is an existing Building or Vehicular Use Area located within the required 15 foot landscape buffer strip, the landscape buffer strip may have an average of 15 feet in width over the entire length of the required buffer area, with no specific location along the buffer strip being less than 8 feet in width.
2. One tree for each 15 feet or fraction of 20 feet of abutting land. At least 50% of the trees within the conflicting land use buffer shall be evergreen. Arrangement of trees in clusters or groupings is encouraged, but in all cases shall be between 15 feet and 30 feet apart on center. Plantings should be placed to screen the views between Buildings that existed at the time of site plan approval, (especially windows and patio views) on the adjacent property.
3. A hedge, landform berm, wall, Fence or combination of those features forming a continuous screen at least 4 feet high. All fueling stations shall employ opaque walls as the continuous screen. For parcels principally used or zoned for residential purposes the requirement for a hedge, landform

berm, wall or Fence is only required to screen Vehicular Use Areas and refuse/recycling containers that are adjacent to the conflicting land use buffer.

4. The site design and planting scheme shall comply with the requirements set forth in this Chapter.
5. Materials used in these areas shall comply with standards set forth in this Chapter.

#### **5.20.5. Private Streets and Shared Driveway Buffers**

Private streets and shared driveways within easements in accordance with section 5.21.4 shall comply with the following street tree and buffer requirements:

##### **A. Street Trees**

One deciduous tree for every 30 feet or fraction of 20 feet shall be provided along each side of a private street. Placement of trees between the edge of the curb and the sidewalk is encouraged, but trees shall not be spaced more than 12 feet from the edge of the curb. A variety of species, planted in alternating order, is encouraged to ensure a tree Canopy over the street and sidewalk in the event of species-specific infestation or disease.

##### **B. Buffer**

A buffer between a private street or shared Driveway and any adjacent parcels not served by the private street or shared Driveway shall be provided consisting of the following:

1. A landscaped buffer strip at least 8 feet wide.
2. A hedge, wall or solid Fence, or combination of those features, forming a continuous screen at least 4 feet in height.

#### **5.20.6. Refuse/Recycling Container Screening**

Refuse/recycling containers for other than single and two-family uses shall be screened from view from any adjacent residential use or Public Right-of-Way, excluding alleys. Screening shall consist of a 6-foot high opaque wall or Fence. Live landscape material located so it does not interfere with the function of the refuse container is encouraged in addition to the opaque screen.

#### **5.20.7. Material and Design Standards for Landscaping, Screening and Buffering**

Materials used to comply with this Chapter shall meet the following standards:

- A. Artificial plants or trees shall not be used.
- B. Any plant listed on the City of Ann Arbor Invasive Species List may not be used to meet the requirement of this Chapter.
- C. If more than 20 trees will be used, a mixture of three or more tree species must be used.
- D. If more than 40 shrubs will be used, a mixture of three or more shrub species must be used.

- E. When proposing or using a native or prairie planting, the selection of plant species must be diverse and similar to native plant communities present in the Ann Arbor area. (The City of Ann Arbor's Natural Area Preservation Program maintains a list of plants native to the Ann Arbor area.)
- F. Plant material used for hedging or screening shall be evergreen and/or deciduous shrubs which shall be a minimum of 24 inches tall and of a size, quantity and spacing to achieve 50 percent year-round opacity at the time of planting. Diversity and native species are encouraged. Plant material shall meet current ANSI American Standards for Nursery Stock.
- G. Fences and walls required for this Chapter shall comply with the requirements of section 5.26. Both sides of the Fence or wall must be decoratively faced.
- H. Landscaped areas shall be covered with biodegradable mulch, ornamental grasses, forbs, native prairie plants, native wetland plants, grass or other perennial herbaceous or shrub planting combinations. Stone or aggregate shall not be accepted to meet this requirement. In areas subject to Erosion, erosion-reducing blankets, or suitable reinforced mulch, shall be used.
- I. Deciduous shade trees shall have a mature crown spread of greater than 15 feet. Permitted trees include those included on the City of Ann Arbor's Approved Street Tree List. Other types of trees can be used with approval of the public services area administrator or designee. Due to the overpopulation of Maple species (*Acer* spp.) within the City, their use should be limited. Small trees such as Crabapples (*Malus* spp.), fruit trees or Hawthorne (*Crataegus* spp.) are not permitted unless approved by the public services area administrator or designee. At planting, trees must have a minimum caliper of 2 inches at 6 inches above the root ball, a burlap ball size of at least 10 times the caliper size, and a clear stem of at least 5 feet (except within sight triangles where 8 feet is required per section 5.20.8). Trees must meet current ANSI Standards for Nursery Stock.
- J. Plants required in this Chapter shall be planted in soils suitable for the species specified, including a depth to compacted surfaces of at least 30 inches with drainage from that surface, if required. Soils must be provided with suitable pH, coarseness, fertility and slope that will maximize the long term vitality of plantings.
- K. Evergreen trees shall be a minimum of 7 feet in height with a minimum spread of 3 feet, and a burlap ball size of at least 10 times the caliper size. Evergreen trees must meet current ANSI American Standards for Nursery Stock.
- L. Existing vegetation on the property may be used to meet the requirements of this Chapter if it meets the size, species and opacity requirements. This determination shall be made by the public services area administrator. Additional credit toward the interior landscaping requirement for Vehicular Use Areas may be obtained by preserving existing trees per section 5.20.3.B.6.
- M. Water outlets (hose bibbs) and/or rain barrels shall be provided within 150 feet of all plant material required by this Chapter if a subsurface irrigation system is

not provided. Plantings may be further than 150 feet from water outlets and/or rain barrels in areas where Xeriscaping plants are used.

- N. Landform berms shall have slopes no greater than one vertical foot for each 3 horizontal feet and shall have at least 2 feet of flat area on top and shall have adequate protection to prevent Erosion.
- O. Landscaped areas in and adjacent to Vehicular Use Areas shall be protected by concrete curbing, anchored bumper blocks, or other durable materials if approved by the public services area administrator. Wood timbers that are not part of a structural retaining wall shall not be accepted to meet this requirement. Alternative barrier designs which provide improved infiltration or storage of stormwater are encouraged. Curbs separating interior landscape islands from Vehicular Use Areas may allow stormwater runoff to pass through them. Curbs may be perforated or have gaps or breaks.
- P. When landscape islands are used for Bioretention, the ponding area should be at least 6 inches deep, but not more than 18 inches deep and planted with native wildflowers/forbs and grasses.
- Q. Plant materials shall be selected and installed in accordance with standards established by the public services area.
- R. Plant material shall be placed to allow full access to fire hydrants and Public Utility systems. A 5-foot space clear of vegetation greater than 6 inches tall shall be maintained around the circumference of fire hydrants, and any access point to a Public Utility system (i.e., water shutoff valve box, sanitary/storm sewer manhole).

#### 5.20.8. Prohibition of Landscaping in Sight Triangles and Intersections<sup>156</sup>

- A. All landscaping or other screening material within a sight triangle shall be no greater than 30 inches tall, and all trees within a sight triangle shall have all branches trimmed to provide clear vision for a vertical height of 8 feet above the roadway surface. Evergreen trees shall not be permitted within sight triangles. The specification for sight triangles found under Sight Distance in Division II of the City of Ann Arbor Public Services Area Standard Specifications Manual shall be used to determine sight triangle areas.
- B. Vegetation adjacent to intersections shall be maintained to allow for adequate sight distance based on the criteria in the AASHTO (American Association of State Highway Transportation Officials) Policy on Geometric Design of Highways and Streets, 5th Edition (2004), or as subsequently amended.

#### 5.20.9. Plant Substitutions

- A. The public services area administrator or designee may approve minor revisions to landscape plant materials due to seasonal planting problems and lack of plant

<sup>156</sup> This section was given its own heading to make it easier to find and to understand that it applies – even to HOAs. It combines standards from current code secs. 3:14 and 5:606(14).

availability. Minor revisions may be approved only when there is no reduction in the quality of plant material, no significant change in size or location of plant material, the new plant material is compatible with the area, and the new plant material is of the same general category (i.e., deciduous shade or evergreen trees) and the same general design characteristics (mature height, crown spread) as the material being replaced.

B. Following approval of plant substitutions by the public service area administrator or designee, an as-built landscape plan must be submitted to the community services area for attachment to the approved site plan.

C. If the criteria in subsection A are not fulfilled, the approved site plan must be revised according to the requirements of section 5.29.7.

**5.20.10. Trees in the Public Right-of Way<sup>157</sup>**

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 which will injure or destroy any tree or shrub, the base of which is located in the street right-of-way or other city land.

**5.20.11. Vegetation that Presents Hazards on Public Property<sup>158</sup>**

No tree or other vegetation which by virtue of disease, damage or insect infestation presents a Hazard to persons or vegetation on public property shall be maintained on private property.

**5.20.12. Weeds and Grass on Public and Private Land<sup>159</sup>**

On private property no turf grass shall be permitted at a height greater than 12 inches. The owner of every parcel of land is responsible for Grading, planting, mowing and raking the extension or city street right-of-way so that it is covered with turf grass with an average height not in excess of 12 inches or other ground cover vegetation with an average height not in excess of 36 inches above the adjacent road surface unless it presents a view Hazard based on the criteria in the AASHTO (American Association of State Highway Transportation Officials) Policy on Geometric Design of Highways and Streets, 5th Edition (2004), or as subsequently amended. The city shall not be liable for damage to any vegetation planted, or to any property or fixtures placed, in or upon the or the city right-of-way that results from work performed by the city in the Lawn Extension or right-of-way.

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<sup>157</sup> Text of 5:19.11 through 5:19.16 are taken from Chapter 40: *Trees and Other Vegetation*.

<sup>158</sup> Section retitled to better reflect its content.

<sup>159</sup> Section combines content from current code secs.3:15 and 3:16 and . Title revised to reflect combined content.

## 5.21. Streets and Access<sup>160</sup>

### 5.21.1. Applicability

#### A. Compliance Required

No site plan shall be approved under Article V of this Chapter unless the site plan shows Curb Cuts or Openings consistent with the requirements of this section 5.21.

#### B. Compliance with Chapter Required for Occupancy

No certificate of occupancy for any Building will be issued under Chapter 100 of this Code unless the property is in substantial compliance with the requirements of this section 5.21 and related land Development regulations and have substantially completed the installation of Curb Cuts contained in any approved plat or site plan for the property.<sup>161</sup>

#### C. Building Projections into Streets<sup>162</sup>

Awnings, canopies, marquees, balconies, cornices and other above-grade projections from Buildings permitted by Chapter 100 of this Code do not require additional permission pursuant to this section 5.21.

### 5.21.2. Curb Cuts and Driveway Approaches

#### A. General

No Curb Cut or Driveway Approach shall be made to a public 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:

#### B. Number of Openings

The number of Openings listed in Table 5:21-1 shall be the maximum for any site, lot or parcel.

TOTAL STREET FRONTAGE	Up to 100 feet	101 feet to 200 feet	201 feet or more
NUMBER OF OPENING S	1	2	2 for the first 200 feet plus 1 for each additional 600 feet of total Street Frontage after the first 200 feet.

#### C. Curb Cut Design and Location Standards

Location and design of all Curb Cuts to a public street shall comply with the Public Service Area rules.<sup>163</sup>

<sup>160</sup> Text from Chapter 47 *Streets* with changes as indicated.

<sup>161</sup> Revised to read “for the property” rather than “for the applicant” to match current practice.

<sup>162</sup> Text from following sections is from 4:16 to 4:21.

<sup>163</sup> Existing content of current code subsections 4:20(3) Location of Openings, 4:20(4) Design Criteria, and 4:20(5) Standards for Parking Lots have been moved to the Public Service Area rules.

**D. Traffic Hazards**

Any Openings which are found to be a traffic Hazard may be closed, modified, or relocated by resolution of City Council.

**E. Traffic Control Order**

The direction and restriction of turning movements<sup>164</sup> 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.

**F. Non-functional 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 100 of this Code where, as a result of the construction, a Curb Cut would become nonfunctional, unless the building permit provides for the replacement of the curb and removal of the Approach. If a non-functional curb is not replaced by curbing and the Approach removed, that work may be done by the City. The cost of that work shall be assessed in accordance with Chapter 13 of this Code against the site formerly served by the Curb Cut.<sup>165</sup>

**5.21.3. Private Street Standards<sup>166</sup>**

- A. Private streets may be provided to access lots, as defined in Article VIII, 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.
1. 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.
  2. Traveled lanes shall be a minimum of 11 feet in width.
  3. The width of a 2-way private street shall be a minimum of 25 feet from the face of curb to the face of curb, or edges of pavement, or 14 feet for a 1-way private street.
  4. 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 edges of pavement, or 20 feet for a 1-way private street; or

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<sup>164</sup> Revised to clarify intent based on current practice.

<sup>165</sup> Subsection on ZBA authority to grant variances and exceptions to curb cut standards was deleted as unnecessary in light of general variance authority over all sections of the ordinance provided in Section 5:27(10).

<sup>166</sup> Text is from Sec. 4:30.



- b. Parking Spaces may be provided in parking bays that meet parking standards.
5. Minimum radius at street intersections shall be 20 feet, as measured along the back of curb.
6. 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.
7. Private streets and parking areas within the street easement shall meet City illumination standards for new parking areas and new public streets.
8. All private streets shall be signed to City standards, with names approved by the Community Services Area.
9. All private streets shall meet City and/or State standards as appropriate for traffic-control devices.<sup>167</sup>
10. 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.
11. Street trees shall be provided as required by section 5.20.

#### 5.21.4. Lot Accessibility<sup>168</sup>

##### A. Access to Public Street

Access to a public street shall be provided for all lots or parcels by one of the following:

1. Abutting a Public Right-of-Way.
2. Abutting a private street easement.
3. For lots zoned for nonresidential use: A permanent recorded unobstructed access and utility easement that is a minimum of 30 feet in width as shown on an approved site plan may serve as the sole means of access to a Public Right-of-Way or private street. The easement shall include provisions for the maintenance of improvements and utilities. For such lots, the Lot Line most parallel with the Public Right-of-Way or Private Street shall be designated as the Front Lot Line. Other Lot Lines shall be determined as provided in this ordinance. Required Setbacks shall be provided in accordance with the Schedule of Area, Height and Placement regulations in this ordinance, with the exception that if the distance between the Front Lot Line and the Public Right-of-Way or private street is more than the minimum front setback dimension for the zoning district in which the lot is located, no required Front Open Space shall be required.
4. For lots zoned solely for single-family residential use: A permanent recorded unobstructed access and utility easement that is a minimum of 30 feet in width may serve as the only means of access to a Public Right-of-Way or private street for a maximum of 2 lots or parcels subject to the following:

<sup>167</sup> Wording revised slightly for clarity and to reflect current practice.

<sup>168</sup> Text is from Sec. 5:77.

- a. Driveways within the easement shall meet all applicable ordinances, including but not limited to section 5.19.
- b. The easement shall include provisions for the maintenance of the Driveway and any other improvements and utilities.
- c. For lots where the easement is the only means of access, either the Lot Line most parallel with the Public Right-of-Way or private street, or most perpendicular with the Public Right-of-Way or private street, shall be designated by an applicant as the Front Lot Line, and the minimum required Front Open Space shall be provided for the entire length of that Front Lot Line<sup>169</sup>.

## 5.22. Storm Water Management and Soil Erosion

No person shall conduct activity for which a permit under this 5.22 or related section 5.29.3 is required without first having obtained the required permit. After the permit has been obtained, no person shall conduct any activity in violation of any condition of that permit, or without having the permit and plans on site.<sup>170</sup>

### 5.22.1. Purpose<sup>171</sup>

- A. The City Council recognizes and is concerned that excessive quantities of soil are eroding from certain areas that are undergoing Development for non-agricultural uses such as housing Development s, industrial areas, recreational uses, and roads. This Erosion makes necessary costly repairs to gullies, washed out fills, roads, and embankments. The resulting Sediment clogs storm sewers and road ditches, muddies Watercourses and silts-in lakes and reservoirs, and is considered a major water pollutant, which degrades the natural environment within its jurisdiction and is costly to remedy.
- B. Water quality and quantity within the water resources of the City is a public concern. As the City is developed, natural vegetation is removed and replaced with Impervious Surfaces. As a result the hydrology of Watercourses, ponds and wetlands is changed. These changes in quantity, speed, and timing of water runoff transform Ann Arbor's Watercourses. As the volume and speed of water increases, so does the erosive action of runoff on hillsides, stream banks and bottoms. As more soils are transported down waterways and as more damage occurs to stream banks and bottoms, natural systems are destroyed or diminished throughout the watershed. Urban activity also contaminates the land's surface. Contaminants are carried with runoff into all aquatic habitats, where they poison wildlife and contribute to the decline of aquatic resources. For people, the combination of these effects diminishes the quality of drinking water, inhibits healthy fisheries, reduces recreation and lessens scenic beauty. The City recognizes the relationship between land use and water quality; and by doing so, desires to control non-point source water pollution. Strategies to control storm

<sup>169</sup> Content on existing easements and lots now appears in Article VI: Non-conformities.

<sup>170</sup> Text from 5:670.

<sup>171</sup> Sec. 5:650, Intent and 5:651, Purpose have been combined into one purpose statement.

water quantity are different from the strategies to improve water quality. This section intends to improve the effectiveness of Storm Water Management Systems, bring greater effort to control the sources of runoff, and to improve water quality.

- C. The purpose of this section 5.22 is to control soil Erosion and the resulting sediment; and to control the impact on water quality and quantity resulting from Development and Impervious Surfaces within the City by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community. Compliance with Part 91 of Act No. 451 of the Public Acts of 1994, as amended, being MCL 324.9101 to 324.9123 and the rules promulgated under this part of the Michigan Compiled Laws, is fully intended.

#### 5.22.2. Single or Two-Family Residential Stormwater Management<sup>172</sup>

Effective March 1, 2011, a site with one single or two-family residential dwelling, with or without accessory Structure(s), that adds 200 square feet or more of Impervious Surface, on-site Storm Water Management Systems shall be required and shall meet the following requirements:

- A. Retention/infiltration of the first flush storm events for the net increase in Impervious Surface, in compliance with the Rules of the Washtenaw County Water Resources Commissioner.
- B. Redirection of all downspouts to vegetated areas or other approved point, but not to Impervious Surfaces, as is required by the “Drainage Nuisances and Complaints” Section of Chapter 100 of City Code.
- C. Exception: On-site stormwater control will not have to be provided for initial construction of new homes in a site planned Development that complies with the stormwater management requirements of this chapter during the period of time that the site plan is effective (i.e., not expired).

#### 5.22.3. Storm Water Management Systems<sup>173</sup>

Compliance with the Storm Water Management System criteria of this section 5.22 is required for any form of construction or removal or disturbance of any Natural Features that requires approval for any site plan, final preliminary plat, or PUD site plan, but is not required for issuance of Grading permits that do not require site plan, final preliminary plat, or PUD site plan approval. Administrative amendments to approved site plans or administrative amendments to approved PUD site plans that do not increase the total impervious area of the site and are not within the jurisdiction of the Washtenaw County Water Resources Commissioner (WCWRC) shall be exempt from the Storm Water Management System requirements of this section 5.22.

<sup>172</sup> Text per ORD-10-36-Ch.63.

<sup>173</sup> Text from Sec. 5:654.

- A. For sites within the jurisdiction of the WCWRC; or sites with Storm Water Management Systems under multiple ownership or for multiple parcels, including but not limited to site condominiums; or residential Development s containing greater than 4 units within 2 or more detached Structures; or sites with Storm Water Management Systems serving more than 1 parcel; the Storm Water Management System shall be reviewed and receive preliminary plan approval from the WCWRC Office prior to site plan, final preliminary plat, or PUD site plan approval by the City. For sites that require review by the WCWRC Office, a permit or letter of final plan approval from the WCWRC Office shall be obtained prior to issuance of a Grading Permit by the City. Any exceptions to the Rules of the WCWRC listed in this section 5.22 are not applicable to reviews performed by the WCWRC Office.
- B. For sites other than described in section 5.22.3.A that contain or are proposed to contain more than 5,000 square feet of Impervious Surface, on-site storm water management systems shall be required for any site that is the subject of a site plan, final preliminary plat, or PUD site plan. The Storm Water Management System shall be reviewed and receive approval from the public services area administrator and meet the design criteria stated in the Rules of the WCWRC, with the following exceptions:
1. For sites that contain existing Impervious Surfaces, adding or removing and replacing Impervious Surfaces solely for the purpose of compliance with the Americans with Disabilities Act, or compliance with the State of Michigan Barrier Free Design Rules (Public Act 1 of 1966, as amended) shall be exempt from the Storm Water Management System requirements of this Chapter.
  2. Sites proposed to contain:<sup>174</sup>
    - a. Impervious Surfaces greater than 5,000 square feet and less than 10,000 square feet require retention/infiltration only of the first flush storm events.
    - b. Impervious Surfaces equal to or greater than 10,000 square feet and less than 15,000 square feet require retention/infiltration only of the first flush and detention only of bank full storm events.
    - c. Impervious Surfaces equal to or greater than 15,000 square feet require retention/infiltration of the first flush, and detention of bankfull, and 100-year storm event. Detention facilities designed for the 100-year storm event shall include a Sediment forebay.
  3. Public sidewalks are not required to be included in the storm water management calculations.
  4. If the site is located in an historic district designated by the City, then the Roof area of the historic Building(s) is not required to be included in the storm water management calculations. This exemption does not apply to noncontributing Structures within the historic district.

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<sup>174</sup> Changes in section from ORD-10-36-Ch.63.

C. Within the Downtown Development Authority District (DDA), or sites outside the DDA that contain existing Impervious Surfaces, alternative methods of storm water detention may be allowed by the approving body if each of the following conditions are met:

1. Control of the first flush storm event has been provided.
2. A determination is provided by an Architector Professional Engineer that Storm Water Management Systems have been provided on-site to the maximum extent feasible and that it is not feasible to provide any additional detention volume due to site constraints including but not limited to existing Buildings, loss of existing parking below that required section 5.19 or protection of Natural Features.
3. The alternative method of storm water detention is consistent with the intent of this section 5.22 and the goals of the Rules of the WCWRC, as determined by the City PDSU Manager.
4. The alternative method of storm water detention is specifically approved on a site plan, final preliminary plat, or PUD site plan in a separate motion by the approving body. Where staff is the approving body, the alternative method of storm water detention shall be approved by the Planning Commission.
5. The alternative method of storm water detention provides an equal or greater amount of resources, in the form of money or land or both, to the City that are at least as beneficial as the required volume of storm water detention that is not being provided on-site. The resources required shall be computed for residential sites at \$2.00 per square foot and commercial sites at \$2.50 per square foot of Impervious Surface not served by a detention facility meeting the design criteria of this section.
6. The alternative method of storm water detention is provided through one or both of the following methods:
  - a. It donates money to the City for the express purpose of improving Storm Water Management Systems within the same watershed such as, but not limited to, regional detention, regional water quality improvements facilities, or increasing floodplain storage capacity. The money may not be used for maintenance of existing public facilities.
  - b. It donates land to the City for the express purpose of improving Storm Water Management Systems within the same watershed. The donation of land is subject to acceptance by City Council. The donated land shall be suitable to be effectively used for improvements of the storm water system within the same watershed and pass Phase I and II environmental assessments prior to acceptance by City Council. The value of the land shall be determined by an appraisal prepared by an independent appraiser acceptable to the City. The appraisal will be submitted to the City Assessor or an independent review appraiser for review and approval.

D. On a site that requires the installation of a Storm Water Management System the detention facility shall be installed and stabilized prior to the issuance of building permits. The Public Services Area Administrator may deem it necessary

to modify the timing of installation of the detention facility when conditions, such as a detention facility that is integral to the Structure of a new Building, prevent installation prior to building permits. As-built verification from an Architect or Professional Engineer shall be submitted to the City PDSU Manager for approval prior to issuance of any certificate of occupancy. The as-built verification shall include: elevations and volumes, outlet sizes and elevations, Stabilization information, and signature and seal of an Architect or Professional Engineer. A sample form may be provided by the City PDSU Manager upon request.

- E. Existing wetlands shall not be modified for the purposes of Storm Water Management Systems unless it is determined that the existing Wetland is not regulated by sections 5.23 and 5.29.4. Where modifications to Wetland areas are allowed, the existing storage shall be maintained and shall not count toward meeting the requirements of this section.
- F. When residential lots or units are proposed to be created, the runoff coefficients shall take into account the future Impervious Surfaces of these building sites within the storm water management calculations.
- G. Storm water management facilities shall be designed so that any discharge of storm water from the facility, which does not empty directly into a drain, shall be converted to sheet flow over the ground through the use of an energy dissipater, in a manner which will preclude Erosion, or other approved method as determined by the public services area administrator.
- H. Prior to the issuance of a Grading permit, the developer of the Storm Water Management System shall provide the City with an agreement, satisfactory to the City Attorney, that if maintenance is not performed to the reasonable satisfaction of the City PDSU Manager the City may, after posting reasonable notice on the site, perform the maintenance activities and charge all costs to the benefited properties. If the costs remain unpaid for 60 days, the City may assess those costs to the benefited properties as a single lot assessment under City Code section 1:292.

#### **5.22.4. Grading Operation Responsibility**

Any person engaged in Grading operations and/or the permittee shall be responsible for:

- A. Installing Temporary Soil Erosion and Sedimentation Control Measures before any Earth Change activity, and maintaining the measures on a daily basis.
- B. Preventing damage to any public utilities or the interruption of utility services within the limits of Grading and along any routes of travel of the equipment.
- C. Preventing damage to adjacent property; no person shall Grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.

- D. Carrying out the proposed work in accordance with the approved plans, and sequence of construction, and in compliance with all the requirements of the permit and this section 5.22.
- E. Immediately removing all soil, miscellaneous Debris or other material applied, dumped, tracked, or otherwise deposited on streets, highways, sidewalks, Storm Water Management Systems, or public thoroughfares during transit to and from the construction, when such spillage constitutes a public nuisance or Hazard. The construction of a Haul Road or other approved vehicle cleaning method may be required by the City PDSU Manager to prevent the spread of Debris.
- F. Designing, constructing, and completing Earth Changes in such a manner which shall limit the exposed area of any disturbed land for the shortest possible period of time, within the approved construction sequence.
- G. Designing, installing and maintaining soil Erosion and sedimentation control measures to remove Sediment caused by Accelerated Soil Erosion from runoff water before it leaves the site of the Earth Change.
- H. Designing and constructing temporary or permanent measures for the conveyance of water around, through or from the Earth Change area to limit the water flow to a non-erosive velocity.
- I. Grading and stabilizing Earth Change areas with Permanent Soil Erosion and Sedimentation Control Measures, and removing temporary soil erosion and sedimentation control measures.
- J. Installing Permanent Soil Erosion and Sedimentation Control Measures for all slopes, channels, ditches or any disturbed land area within 5 calendar days after final Grading or the final Earth Change has been completed. All Temporary Soil Erosion and Sedimentation Control Measures shall be maintained until Permanent Soil Erosion and Sedimentation Control Measures are implemented and the disturbed land areas are stabilized.
- K. Making the approved plans and permit available for inspection at all times at the site of the Earth Change.
- L. Conducting Earth Changes in such a manner that will effectively reduce Accelerated Soil Erosion and resulting sedimentation.

#### 5.22.5. Maintenance Standards<sup>175</sup>

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

#### 5.22.6. Liability

Neither the issuance of permits, under the provisions of this Chapter, nor the compliance with the provisions of this Chapter, or with any condition imposed by

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<sup>175</sup> Maintenance and Liability texts are from Sec. 5:668 *Grading*. The current references are to Chapter 63, but since the original content of that chapter now appears in different portions of the UDC, a general reference to the UDC is appropriate.

the PDSU Manager under this Chapter, shall relieve any person from the responsibility for damage to any persons or property otherwise imposed by law, nor impose any liability upon the City for damages to persons or property.

## 5.23. Natural Features Protections

### 5.23.1. Mitigation of Natural Features Impacts<sup>176</sup>

A. When a site plan, a PUD site plan, or plat proposes that Natural Features be removed or disturbed, the following mitigation measures are required and shall be shown on the site plan, the PUD site plan, or plat:

**1. Wetlands**

Wetland mitigation shall be provided as required by section this section 5.23.

**2. Watercourses**

Mitigation for disturbance of Watercourses shall be provided according to the requirements of a valid permit from the Michigan Department of Environmental Quality in accordance with the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended to date.

**3. Endangered Species Habitat**

Endangered Species Habitat shall be mitigated in accordance with the Michigan Natural Resources and Environment Protection Act, 1994 PA 451, as amended to date.

**4. One-hundred Year Floodplain**

Floodplain areas shall be mitigated to provide no net loss of flood storage capacity and shall comply with any conditions of a valid permit from the Michigan Department of Environment Quality in accordance with the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended to date. If mitigation is proposed off-site, it shall be located in the same watershed as the Development site.

**5. Landmark Trees and Woodlands**

- a. Replacement for Approved Disturbances. A replacement tree or a combination of trees of a species native to Michigan shall be provided to equal a minimum of 50% of the original DBH for each Landmark Tree, or Woodland tree 8 inches or larger, that is removed. Replacement trees shall be non-sterile varieties. The minimum size of deciduous replacement tree shall be 1 inch caliper. The minimum size of an evergreen replacement tree shall be 5 feet in height. If more than 20 replacement trees are required, a mixture of 3 or more species must be used.
- b. Replacement for Unapproved Disturbances. A replacement tree or a combination of trees of a species native to Michigan shall be provided to

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<sup>176</sup> Text from Sec. 5:127.



equal a minimum of 200% of the original DBH for each Landmark Tree, or Woodland tree 8 inches or larger, that is removed without the approval required by this section 5.23.

## 6. Steep Slopes

Disturbed areas of Steep Slopes shall approximate the natural terrain and be planted with native vegetation at the completion of construction. No new drainage may be directed over areas of disturbed slope.

## 7. All features

Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be such that it will approximate the density and coverage before disturbance within 3 years after planting.

### 5.23.2. Natural Features Protection Guidelines<sup>177</sup>

#### A. Purpose

The purpose of these guidelines is to assist petitioners, reviewers, decision makers, and the general public in understanding how Natural Features may be identified, evaluated, protected, and mitigated on sites being reviewed under the provisions of this Chapter of the Ann Arbor City Code.

#### B. Maps and Information Resources

Information about Natural Features in the City of Ann Arbor is available from the following public sources:

1. City Planning and Development Services Unit (PDSU). In addition to maintaining the City's official Wetland inventory map, PDSU has a Woodland inventory compiled in 1993 and a listing of species recognized as invasive in the Ann Arbor area. The department also has current and historical aerial photographs at various scales.
2. City Parks Department. The Parks Department has a listing of recommended native species for the Ann Arbor area, a number of species surveys and information about endangered species. In addition, the Department has prepared stewardship and management plans for City Parks. The City Forester has much information about public and private trees throughout the City.
3. Washtenaw County Metropolitan Planning Commission. The County Planning Commission has prepared digital maps of significant Natural Features throughout the County, including wetlands, hydric soils, erodible soils, Steep Slopes, watersheds and woodlands. Maps are available in a wide variety of formats and scales.
4. Washtenaw County Tax Equalization Department. The County Equalization Office maintains township parcel maps and aerial photographs.

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<sup>177</sup> Text from Land Development Regulations (Guidelines for the Protection and Mitigation of Natural Features).

5. The University of Michigan. The University Library system has early plat maps of the City in addition to copies of original land survey records, which often indicate the type of vegetation, terrain and conditions that existed prior to settlement. Some departments have copies of aerial photos of flights over the City. Some faculty have done extensive studies of many of the City's natural areas, and may otherwise be helpful with many aspects related to identification, assessment and management of Natural Features.
6. The State of Michigan's MIRIS program (at MDNR) has aerial photos, maps and digitized information in many categories available for the Ann Arbor region.

### **C. State and Federal Statutes and Regulation**

State and Federal governments have laws and regulations governing Development in wetlands, in floodplains, in Watercourses, on bottomlands, and in the vicinity of rare, threatened or endangered species of plants or animals. These statutes often require permits for Development in or affecting these Natural Features. Permits as required from these agencies should be applied for concurrently with any request for area and site plan approval from the City. Contact the Michigan Department of Environmental Quality for its applications and review procedures.

### **D. General**

The following sections discuss each natural feature in substantial detail. Each feature is discussed with respect to:

1. A summary of key facets including a perspective on the importance of the natural feature to the people of the City.
2. Means to identify, differentiate and evaluate the natural feature.
3. The general natural feature protection priorities of the City, and some perspective on how to measure each natural feature's relative importance to others in the City or on the site.
4. Guidelines for mitigating important Natural Features which cannot be excluded from Development.
5. Measures for protecting Natural Features during construction.

### **E. Endangered Species Habitats**

Endangered species are most likely to be found in the midst of natural areas described in these guidelines as "highest concern." When a rare, threatened or endangered species is found, careful assessment should be made of the species and the area in which it is found. These organisms and their habitat may be intolerant of change caused by a Development, such as change in hydrological conditions, even if the habitat itself is outside the Limits of Soil Disturbance for a project. These species and their habitats are important to the City for the richness and diversity of species they offer.

#### **1. Identification**

Within Ann Arbor, the areas most likely to contain endangered species are sandy, wet bottom lands and wetlands along the Huron River, along its tributaries, and in the many small pocket wetlands in native forest fragments.

Many of these areas can be quite small in size. Rare and unusual endangered species (of ferns, bryophytes, orchids, grasses, etc.) may also be found on disturbed ground – including along shorelines and streambanks, flooded areas, old farmed fields, Borrow Pits, eroding slopes, burned areas, embankments along railroads and roads, in cemeteries, old settlement areas and farmsteads, etc.

## **2. Protection Priorities**

The protection of endangered species and their habitats are regulated by the State of Michigan (MDNR), in cooperation with the US Fish and Wildlife Service. The City will work in coordination with state and federal regulating agencies to identify the best protection Approach, based on the specific characteristics of the species involved. In general, these species and their habitats should be excluded from Development and protected from the impact of Development.

## **3. Mitigation**

The precise mitigation requirements for an Endangered Species Habitat which must be damaged or destroyed for Development will be determined in cooperation with state and federal officials. A permit is required from these agencies.

## **4. Protection Measures**

The City will work in coordination with state and federal regulating agencies to identify appropriate protection measures to sustain the species, based on the specific characteristics and needs of the habitat and species involved.

## **F. Floodplains (100-Year)**

### **1. General**

Floodplains serve to minimize damage to land and water resources because of their capacity to store water. In so doing they control Erosion, silting and contamination of water features and aquatic wildlife. Prior to settlement of the City (1824), floodplains were forested or were wet meadows of several types, and existed in many more locations than now. Healthy, stable plant life is important in determining a floodplain's capacity and function in slowing, filtering, and cooling water moving through them. Floodplains are not a desirable location for storm water detention facilities.

### **2. Floodplains as Wetlands or Watercourses**

Floodplains also may qualify as Wetland or Watercourse Natural Features. With Watercourses and other surrounding Natural Features, floodplains serve as vital wildlife reserves and linking corridors for important populations of plants, animals, aquatic organisms, and natural associations throughout the City.

### **3. Identification**

Floodplains, floodways and Watercourses that have watersheds two square miles or larger are officially mapped and regulated under provisions of Federal and State statutes. Floodplain and floodway boundaries are available on Flood Insurance Rate Maps (FIRM), produced by the Federal Emergency

Management Agency (FEMA). The City may ask for investigation and mapping of flooding zones along Watercourses on sites not officially mapped. If substantial flooding potential exists, and Buildings and Structures are proposed in the floodplain, the City may ask for formal hydrological studies to determine the long-term safety and the hydrological and environmental soundness of a proposed project.

#### 4. Protection Priorities

##### a. Highest Concern

- i) Floodplains with natural plant life and natural landform conditions are very important to protect from Development. They involve native floodplain forest fragments (extremely rare), or native sedge or fen meadows (rare and important natural areas, likely habitats for rare species in the City). These areas not only are rich biologically, but provide floodplain function.
- ii) The City's original floodplain forests were populated by red ash, black and silver maple, and hickories. In disturbed conditions these forests include sycamore, elm, cottonwood and native willows. Such forest fragments still exist in some areas along the Huron River.
- iii) Floodplains of highest concern should be preserved as part of any Development proposal (which means not only is there no disturbance to soils, but there is no disturbance to surface and subsurface hydrological regimes). In cases where these habitats exist and are being invaded by exotics, every reasonable effort should be taken to restore the habitat as part of a Development proposal. Where enhancement of capacity and function can be done, it should be.

##### b. Mid-level Concern

- i) Forested floodplains dominated by exotics, including black alder, several willows, and floodplain meadows dominated by cattails or purple loosestrife.
- ii) While these floodplain forests are not as important to protect for their biological value, they are vital to the continued function/capacity of the floodplain. Whenever possible, these areas should be left undisturbed. In many cases, restoration of these areas with native plants could be useful in enhancing the function, appearance, and wildlife value of the floodplain.
- iii) Floodplains of midlevel concern should not be built upon. In any case, the floodplain's function and capacity should not be diminished. Where enhancement of capacity and function can be done, it should be.

##### c. Low-level Concern

Floodplains characterized by paving or turf or otherwise cleared land are not as important to protect from Development, if some must occur. A key concern to guide such decisions should be whether there are flooding and

water quality problems in the watershed, and what opportunity exists for mitigation to address these problems.

## **5. Mitigation**

- a. Where the actual volume/land area of a floodplain is affected by a proposed Development, the volume/land area of the flood plain lost should be restored elsewhere on the site or in the watershed.
- b. Where paved surfaces are proposed in a floodplain, they should be minimized to the fullest extent possible. The area of paved surface on a site in a floodplain should be mitigated by new floodplain with native floodplain species installed elsewhere on the site or elsewhere in the watershed, or it should be mitigated by a landscape design for the site that enhances floodplain function.
- c. Where forest fragments, fen and sedge meadows are removed or disturbed, they should be mitigated to replicate equally valuable Natural Features on the site or in some other location in the watershed.
- d. Lesser quality plant communities should also be replaced, but the level of diversity of the mitigation may be less (using native associations is more desirable).
- e. To the fullest extent possible, regardless of existing conditions, landscape design for a project proposed in a floodplain should avoid turf and use (preferably native) associations of plant materials that can become effective on the site as healthy floodplain plant communities.
- f. Alternate mitigation (when these procedures are not possible) could include natural areas management or restoration work on floodplains elsewhere on the site or within the watershed. They might include addition of storm water control facilities beyond other code requirements.

## **6. Protection Measures**

Tolerance for soil Erosion on any construction site in any floodplain should be very narrow. Special, effective soil Erosion and flood protection techniques should be devised and required in each instance, during construction and for as long afterward as it takes for vegetation to become very well established and for soils to be stable during storm/flooding events. These techniques and devices need careful design and maintenance to protect against washout in storm events and damage to water resources.

## **G. Woodlands**

### **1. General**

- a. The City's woodlands are of two primary types, either planted and volunteer, or naturally regenerating native forest. Nearly all of the City's land area was covered by mature native forest associations, in 1824. Nearly all of those forests were cut down in the 20 years between 1840 and 1860. A substantial majority of the land area of the City was

then cleared of stumps and all herbaceous vegetation for European style farming. As the City has urbanized, farmed land has been developed and planted with a wide variety of ornamentals, often so densely as to qualify as woodlands. Where farmlands have been abandoned but not yet developed, volunteer species of trees and invasives rapidly colonize, often so densely as to qualify as woodlands. Some native species managed to regenerate in these areas, but often seed stocks and microflora in the soil necessary for direct regeneration of forests as they existed in 1824 were destroyed by the farming and urbanization processes.

- b. A patchwork quilt of areas once forested across the City were never cleared and farmed, even though all the trees were cut down. These sites were the “back 40’s” of farms people chose not to actively crop, were areas wet and difficult to drain, or were areas on Steep Slopes. Many of these sites have been completely destroyed as the City has been built, many have already had housing built in them, some are in Parks, some remain undeveloped. These lands have regenerated trees and sometimes a forest association similar to what existed in 1824.
- c. These native forest fragments and old trees are important to the scenic and biological quality of life the City. These areas can simply be a grove of native trees much older than the houses and gardens under them. Or they can be regenerating ecosystems (trees in the canopy, dogwoods, shadblow and witch hazel in the understory, very few shrubs, and a diverse herbaceous flora).

## **2. Identification**

### **a. Native Forest Fragments**

Native forest fragments are visible on early low altitude aerial photographs of the City, before the invasion of exotic woody plants. These fragments are typified by their unfarmed soils and by the combination of plants constituting an ecosystem association recognizable as dating back to 1824. These fragments can be floodplain forests (Black and Silver maples, Red ash, hickories), wooded mesic or wetland forests (red oak and red maple), dry forests on the tops of sand and gravel filled moraines and kames (White oak, Hickories and White ash), to mesic forests on moister upland soils (Sugar maple, Red maple and American beech). A very wide variety of species existed as part of these associations, and can be present in the regenerating fragments. Sometimes only the trees remain, such as the grove of old Burr oaks in the vicinity of St. Andrew’s Church – the only remaining trees of the Burr oak savanna called Ann’s Arbor. In some cases, native forest fragments are colonizing into fields once farmed adjacent to them. These areas are rich wildlife habitats and should be treated with care, along with the native forest fragments.

### **b. Urban Woodlands**

Urban woodlands are areas which have the density necessary to meet the definition of Woodland used by the City, but which are not native forest

fragments. Groves of planted trees, often of pines or spruces are found throughout the City. Volunteer trees may come into an area so densely as to create a Woodland under the definition. Some people may plant and cultivate trees densely enough to qualify. These landscapes do not function as self-sustaining ecosystems, but they can function as valuable wildlife habitat, can provide great scenic resource, do influence the climate, and make life in the City more enjoyable for people.

**c. Pioneer Woodlands**

Pioneer Woodlands are those which arise on disturbed soils, such as soils which have gone through a period of cultivation in the European monocultural style, or soils which have been overturned, moved, or graded to the extent that seed (and the related, beneficial soil microflora) for regenerating the ecosystem is destroyed or greatly diminished. Pioneer woodlands are usually found on abandoned farm fields or waste sites of various sorts. These woodlands are often dominated by invasive exotic shrubs and are impoverished wildlife sites.

**3. Protection Priorities**

**a. Highest Concern**

- i) Native forest fragments, particularly those that still have a wide diversity of native species at all levels (woody and herbaceous plants) are the most important sites to protect from Development and from the impact of Development. Many of these sites have been and are being rapidly invaded by exotic species (of shrubs, primarily), and need active care as well as protection to sustain them.
- ii) The highest quality among these fragments should not be built upon. These fragments should be retained as public land and managed as natural areas. Effort should be made to preserve and protect all remaining native forest fragments to the fullest extent possible. Further fragmentation is not desirable.

**b. Mid-level Concern**

Ann Arbor's urban woodlands are directly derived from people's planting activities, as the City developed. Woods and trees involved in these settings very likely have considerable importance to people who live near them.

**c. Low-level Concern**

Generally speaking, pioneer woodlands that are now developing in the City are often dominated by exotic trees and shrubs, with an occasional large native tree that a farmer retained in his field. New, well designed and well planted built landscapes would be more appealing and more valuable in the long term, than protecting these woodlands. Vegetation must be removed in order to return it to a more natural and pleasing landform. Landmark Trees and other valuable features may exist on the site. If so, they would be key concerns in the design of Development for these areas. (Caution: rare endangered species can also exist on disturbed sites.)

#### 4. Mitigation

- a. When native forest fragments must be taken in whole or in part, they should be mitigated by the installation of replacement trees or by the creation of an area planted with a comparable plant association (trees, understory trees, shrubs, herbaceous plants – not including exotics) on the site or elsewhere in the City.
- b. Where a valuable native forest fragment must be partly destroyed by Development, the balance of the fragment should be actively managed as a natural area, to sustain it into the future. This includes the important task of controlling invasive exotics.
- c. Urban Woodlands may also have considerable value to City residents. Development in them should be handled as sensitively as possible. Tree replacements for trees taken from such a Woodland should be replaced on the site in a manner that compliments the character of Woodland. Landscape design of the site should also complement the character of the Woodland, and should be sensitive to screening and otherwise providing affected neighbors with pleasant views into the site.
- d. Care should be taken during the Development process to conserve topsoils which must be disturbed on site, and to install plant materials into optimum conditions. Compacted soils placed by heavy machines are not suitable for successful establishment of many types of plants. Retained topsoils can be used in new planting zones to great benefit.
- e. Alternative mitigation plans which could be negotiated could include management or restoration of comparable Natural Features on the site or on public lands elsewhere in the City, or donation of trees to the City to be planted on public land, donation of time and materials to assist the City in managing valuable natural areas on public land. Valuable wetlands on the site or elsewhere could be enhanced, storm water retention capacity could be increased, floodplain capacity and function could be improved – each beyond that already required by code.

#### 5. Protection Measures

- a. Native forest fragments excluded from Development should be defended from all intrusions during Development by well-maintained barrier fencing.
- b. Where native forest fragments are to be built in, but not completely removed, then those areas to be excluded from Development should be clearly Fenced during the process. Grading, roads, walkways, utility lines, and all other aspects of soil disturbance should be minimized to the fullest extent that sound design and public safety will allow.
- c. Clearing for Buildings should be strictly minimized to the least area needed to work around Buildings. Excavated spoils from basements and other needed Grading should not be spread on the site in the native



forest fragment area. Very careful handling of trees near the Building envelope should be undertaken to the fullest extent possible.

- d. Where management of retained native forest fragments is undertaken, these activities should be conducted according to the principles and techniques described in a well-developed management plan. Advice from qualified natural area managers should be sought and included in such plans. A key element of these plans should be the control of Invasive Species, which threaten natural areas throughout the City.
- e. Wherever trees are to be retained in any type of Woodland in the City, protection measures in accordance with the Natural Features Protection section of this section and section 5.28.4 of this Chapter must be adhered to.
- f. The most effective way to save trees is by planning ahead for their protection. Four steps will help accomplish this:
  - i) Delineate areas with severe limitations and stay away from them (provide barriers).
  - ii) Design the site to minimize Grading/soil disturbance in the vicinity of retained trees.
  - iii) Provide for adequate and effective storm water management.
  - iv) Design landscape installations to complement and honor retained trees.
- g. In addition to protective fencing at the Critical Root Zone, a number of other construction techniques can help save trees. These include placing utilities under pavement instead of under trees; tunneling utilities under trees instead of trenching; using granular material when placing minimum amounts of Fill over roots; excavating by hand; and keeping heavy equipment and vehicle traffic away from the Critical Root Zone. Grading changes should not either increase or decrease moisture conditions in the Critical Root Zone.

#### **H. Landmark Trees**

Large, old, picturesque, rare, well-located, or otherwise special and interesting trees play an important role in the character of individual properties, and in the fabric of the City as a whole. All the trees in the City together have positive effects on the climate of the City, on its ability to attract and sustain wildlife, and on its visual beauty.

##### **1. Identification**

- a. Trees which qualify as Natural Features are, generally speaking, any tree larger than 24 inches in Diameter at Breast Height and any tree of a size listed on the Landmark Tree List (See Table 5:23-1)).
- b. Large trees in natural areas (native forest fragments or forested wetlands or floodplain forest fragments) will often qualify as Landmark Trees.

## 2. Land Mark Tree List

Table 5:23-1 LANDMARK TREE LIST		
Common Name	Scientific Name	DBH
Ash	Fraxinus spp. (not cultivars)	18"
Basswood	Tilia spp.	18"
Beech	Fagus spp.	18"
Buckeye (Horsechestnut)	Aesculus spp.	18"
Cherry, Black	Prunus serotina	18"
Elm	Ulmus spp. (except pumila)	18"
Fir	Abies spp.	18"
Fir, Douglas	Pseudotsuga menziesii	18"
Kentucky Coffee Tree	Gymnocladus dioicus	18"
Maple, Silver	Acer saccharinum	18"
Pine	Pinus spp.	18"
Spruce	Picea spp.	18"
Sycamore; London Plane	Platanus spp.	18"
Tuliptree	Liriodendron tuliperifera	18"
Walnut, Black	Juglans nigra	18"
Hickory	Carya spp.	16"
Honey Locust	Gleditsia triacanthos	16"
Maple	Acer spp. (unless otherwise noted)	16"
Oak	Quercus spp.	16"
Arbor vitae	Thuja occidentalis	12"
Bald Cypress	Taxodium distichum	12"
Birch	Betula spp.	12"
Black Tupelo	Nyssa sylvatica	12"
Cherry, Flowering	Prunus spp.	12"
Crabapple (cultivar)	Malus spp.	12"
Dawn Redwood	Metasequoia glyptostroboides	12"
Eastern Hemlock	Tsuga canadensis	12"
Ginkgo	Ginkgo biloba	12"
Hackberry	Celtis occidentalis	12"
Hawthorn	Crataegus spp.	12"
Larch/Tamarack	Larix spp.	12"
Pear	Pyrus spp.	12"
Persimmon	Diospyros virginiana	12"
Populus	Populus (except deltoides, alba)	12"
Sassafras	Sassafras albidum	12"
Sweetgum	Liquidambar styraciflua	12"
Yellow Wood	Cladrastis lutea	12"
American Chestnut	Castanea dentata	8"
Butternut	Juglans cinerea	8"
Cedar	Juniperus spp. & upright cultivars	8"
Cedar of Lebanon	Cedrus spp.	8"
Eastern Redbud	Cercis canadensis	8"
Dogwood, Flowering	Cornus florida	8"
Hornbeam, Blue Beech	Carpinus spp.	8"
Ironwood	Ostrya virginiana	8"
Maple, Mountain/Striped	Acer spicatum/pensylvanicum	8"
Pawpaw	Asimina triloba	8"

## 3. Protection Priorities

a. **Highest Concern**

Landmark Trees of most importance to protect are ones which are rare, unusual, old or historically significant. Certain trees may play a special role in the visual resources of a site or an area. If the trees are native to Ann Arbor (known to have grown here in 1824), they are particularly important to protect. Such trees should be retained and be used as a valuable and integral part of the new Development's landscape.

b. **Mid-level Concern**

Trees which are mature, late succession species, provide wildlife habitat or visual screening, represent good diversity of species, have interesting flowers or other features, or are in proximity to a native forest fragment and are related to it.

c. **Low-level Concern**

Pioneer species of Woody plants arising on sites with highly disturbed soils, trees and shrubs not native to the region and known to be invasive (seeding prolifically and naturalizing into the neighborhood or into natural areas). Generally speaking, a fine quality planted landscape can be more valuable in the long term, and more appealing to more people in the short term than many pioneer woodlands in the City.

4. **Mitigation**

- a. Required or desired replacement should include the most appropriate, non-invasive species as part of the project design. Replacement requirements include using species native to Michigan, and a diversity of species in a range of sizes. Where trees are taken from a natural area, it is the natural area which should be replaced or restored at some other location — involving much more than just tree planting. Trees which go into such a project may need to be smaller in size to find enough of the species needed to make a viable start to creating an ecosystem.
- b. Replacement trees need a chance to become as great as the trees they replace. Genuine concern for soils and cultural needs of new plants should be a part of the design process. Many species of trees will never thrive in compacted, Fill soils — or in conditions not suitable for their optimum growth. Recognition of these realities is critical to successful replacement.
- c. Where it is not possible to install the number of trees required, alternate mitigation plans may be developed — including active management or restoration of natural areas on the site, planting of trees on public land elsewhere in the City, additional storm water controls beyond that required in code and of help with flooding conditions on the site or in the watershed, donation of public land on the site or elsewhere, etc.

## 5. Protection Measures

- a. Tree roots are very vulnerable to disturbance. Trees generally do not have tap roots, nor a Structure like what is above ground. They have a flat mat of roots extending within several inches to several feet from the surface of the ground and out a distance at least the diameter of the drip line of the tree. The most important roots are the fibrous ones, on the outermost ends of the root branches.
- b. All construction activity (including the affects on soil moisture and drainage of Grading changes in the area) should be excluded from the Critical Root Zone (CRZ) of trees to be preserved according to submitted plans. The expected survival rate for trees treated in this manner is very high.
- c. These activities damage or destroy tree roots and threaten the life of trees: Soil compaction from vehicle and machine parking and traffic, excavation or filling, storage of materials, Grading changes that affect soil moisture in the root zone at any time, and insensitive landscape design and installation techniques (including irrigation).
- d. The most effective way to save trees is by planning ahead for their protection. Tree areas with severe space and other limitations can be avoided, Grading can be minimized or eliminated in tree areas, effective stormwater management facilities can be installed in a way to keep moisture levels in tree areas unchanged, and the design and installation of landscape elements (including irrigation) can be done in a way which honors the needs of protected Landmark Trees. Oaks, hickories, maples, beeches — many of the native hardwood trees and most old trees - do not adapt to changes caused by construction activity in the CRZ.
- e. In addition to protective fencing at the Critical Root Zone, a number of other construction techniques can help save trees. These include placing utilities under pavement instead of under trees; tunneling utilities under trees instead of trenching; using granular material when placing modest amounts of soil over roots; excavating by hand; and keeping equipment and vehicles away from the Critical Root Zone.
- f. The Limits of Soil Disturbance notations shown on plans around protected trees should be marked on the site with barrier fencing, throughout construction.

### I. Steep Slopes

#### 1. General

- a. Steep Slopes in Ann Arbor are found on the sides of moraines, kames, and ravines, and the eroded valleys of waterways. Because of their steepness, these slopes were typically not farmed, more old trees survived the logging of the last century, and they have been slower to be developed for urban purposes.

- b. Steep Slopes are prone to Erosion if the vegetation on them is disturbed, or if surface runoff is directed toward them or down them. As a result, disturbed slopes often result in deposition of soils in Watercourses and on the land below. Hydrologic functions such as infiltration, frequency and volume of discharges, and impacts of the proposed Development upon water resources on and off site must be considered.
- c. The City's Steep Slopes still often retain on them or adjacent to them various wetlands, prairie-savannas, rare species, floodplains, Watercourses, and the City's largest areas of native forest fragments. Steep Slopes with native forest fragments or other overlapping Natural Features have high natural and scenic value.
- d. Scenic values are measurable. Each site can be quantified for its relative overall scenic value as viewed from vista points off the site. Steep Slopes, especially those in the Huron River Valley still covered by native forest fragments, are the most important natural scenic assets of the City. Vistas of unbroken native forest tree canopy, visible on Steep Slopes and moraine tops, are vital to maintain across the City.

## **2. Identification**

- a. Steep Slopes are naturally occurring landforms with a vertical change in elevation of ten feet or more, a slope of 20 percent or more, and a length of 50 feet or more, measured parallel to the contour lines. They are identified on the "Map of Steep Slopes of Ann Arbor, 2004." Most Steep Slopes in the City occur in the Huron River corridor or along its tributaries.
- b. Also shown on the map are zones 3,000 feet each way from the centerline of the Huron River, and zones 500 feet each way from the centerlines of the tributary streams in the City. These zones encompass the great majority of Steep Slopes in the City, and are an initial approximation of the areas in which there are likely to be both other Natural Features of high concern and slopes of high visual sensitivity.

## **3. Protection Priorities**

### **a. Highest Concern**

- i) Extremely Steep Slopes of 40 percent or greater anywhere in the City are of highest concern. These are predominantly adjacent to the River and typically also include one or more other Natural Features.
- ii) Steep Slopes of 20 percent or greater that are within 3,000 feet of the Huron River or within 500 feet of its open or historic tributaries and that: a) have native forest fragments or other high quality Natural Features in addition to the Steep Slope; or b) serve as a source of water for adjacent or connected water features; are of highest concern.
- iii) These Natural Features need to be sustained and cared for as natural areas. In the event the public benefits of a proposed Development in

an area of highest concern are deemed to outweigh the benefits of maintaining it as a protected natural area, the project shall meet the highest standards of mid-level concern. When Steep Slopes are considered for Development the impact on the City's visual character shall be considered, and negative impacts minimized in the approval process.

**b. Mid-level Concern**

- i) Steep Slopes within 3,000 feet of the Huron River or within 500 feet of its open or historic tributaries that do not meet the criteria for highest concern are of mid-level concern.
- ii) The landform and vegetation on these slopes must be disturbed to the least extent possible. The visual integrity of the site in relation to adjacent areas should be maintained. The techniques for Erosion and water protection described for low-level Steep Slopes shall be followed.

**c. Low-level Concern**

- i) Steep Slopes not within 3,000 feet of the Huron River or within 500 feet of its open or historic tributaries are of low-level concern.
- ii) Development on Steep Slopes requires special techniques to prevent soil Erosion and to protect water resources. A study of ground and surface water flows of the site may be required to understand possible on- and off-site impacts of a proposed Development on the water resources. Landscape work on these sites should be designed to restore native ecologies, to reduce storm water runoff, to enhance infiltration, to increase flood storage capacity, to allow only clean water to exit the site, and to honor natural linkages and natural areas and adjacent water features. Soils must not be permitted to wash from these sites under any circumstances.
- iii) The site's design should incorporate the slopes to that the Development complements the character of the landforms, vegetation and topography. Any Development must meet all the standards for any other Natural Features of the site.

**4. Mitigation**

- a. If any portion of a high or mid-level concern Steep Slope must be disturbed as part of an approved project, then the balance of the Steep Slope area must be protected from disturbance during construction and it must be managed/restored as a natural area thereafter. This means considerable attention will be paid to herbaceous, understory, and Canopy flora. The built landscape around any approved Buildings shall use minimum Impervious Surface, and shall be very complementary to the adjoining natural area. Roof water on the site and other surface rainwater drainage systems on the site are to be designed to infiltrate to groundwater (where possible) in such a way as to approximate infiltration on the site prior to the project (runoff from roads may need

cleaning first). The use of green Roofs are encouraged to reduce runoff. The design of the Building and its location on the site should not diminish the views of or character of the views of the site, i.e. not remove a closed native forest canopy.

- b. Change to any Natural Features on a Steep Slope site must meet the mitigation standards for those features. Replacement materials, techniques and long-term maintenance routines required as mitigation should serve to restore the visual character of the site.
- c. Follow-up monitoring may be required in some instances for a period of time related to the duration of the restoration work or recovery from damage.

#### **5. Protection Measures**

- a. Protection measures must be in place before landform or vegetation disturbance to prevent any off-site damage. Any damage to waterways or off-site locations from Erosion must be promptly repaired to the fullest extent practical, using best management techniques. A heavy rain event is not an excuse for such damage to occur. Collateral damage during and after construction to Canopy trees on scenically important sites must be scrupulously avoided (it will take 150 years to replace any unintended losses). Plans presented for Development on Steep Slopes must reflect sound analysis of scenic values, must show very serious concern for soil Erosion controls, and have very carefully crafted limits of disturbance lines, and must indicate procedures whereby all Contractors, subcontractors, owners and inspectors are fully and continuously informed of the values on the site that must be protected, without errors.
- b. Great attention should be exercised in the approval and inspection process regarding the design of drainage systems, roads and paved surfaces, retaining walls, and the means by which the entire project will actually be constructed, to avoid collateral, unintended damage. The use of retaining walls can reduce the amount of Grading necessary, but are not encouraged (they are rarely durable Structures). If retaining walls are proposed, the use of walls that incorporate vegetation are encouraged to improve aesthetics. Underground utilities should not be located in Steep Slopes and should not run lengthwise along them. Drainage should be directed to inlet Structures and not be permitted to flow down slopes during and after construction.
- c. The primary goal in protecting Steep Slopes is to prevent Erosion and subsequent damage to Natural Features on and off the site. The use of retaining walls can reduce the amount of Grading necessary, but are not encouraged (they are rarely durable Structures). Underground utilities should not be located in Steep Slopes, and should not run lengthwise along them. Drainage should be directed to inlet Structures and not be permitted to flow down slopes during and after construction.

- d. Protection measures for other Natural Features placed at risk by intrusion onto a Steep Slope should be designed and implemented in such a way that risk of damage to the Natural Features involved is the minimum possible. These provisions may need to be significantly more strenuous than those which might be implemented for the same Natural Features on flat ground.

## **J. Watercourses**

### **1. General**

- a. The preeminent natural feature in the City is the Huron River, its tributaries, and the glacial landforms and topography which embrace them.
- b. These Watercourses bring water to and through a property and, together, create vital wildlife corridors through the City. They are key components of scenic beauty and of outdoor attraction for people in the City, and on many individual properties. They also serve the practical function of providing drinking water, either directly (the City's main water supply intakes are in Barton Pond) or indirectly by the primary conduits of ground water recharge.
- c. The Huron River is the main Watercourse through the City. Only small portions of its length remain naturally flowing, inside 1824 stream banks. Its configuration and flow patterns were changed with the building of the Edison electric utility dams. Because of these dams, the potential for flooding on the river through the City is limited. (Flooding is a problem on the tributaries.)
- d. Other Watercourses in the City are tributaries and subtributaries of the Huron River. Many parts of streams and some entire streams no longer exist above ground. They have been placed underground in storm pipes (e.g., Allen Creek). Most of the remaining tributaries are in poor condition because they have been overwhelmed by the increased runoff generated by Development of the City.
- e. Construction of Structures in Watercourses and bottomlands of lakes and ponds is regulated by statutes in the State of Michigan, under permits usually issued by the Department of Environmental Quality. A permit will be required from these agencies. Their regulations aim to minimize dredging and filling in Watercourses and in bottom lands, to minimize negative impacts which result from necessary activities of this sort, and (in the case of wetlands which are associated with these projects) replace the lost resources.

### **2. Identification**

- a. Many streams and bodies of water qualifying as Watercourses and bottomlands will be visible on aerial photographs and maps, many small ponds and the uppermost reaches of some streams may not. These features are readily identifiable in the field.



- b. Watercourses are clearly delineated on floodplain maps. In the upper reaches of watersheds too small for those maps to have been done, Watercourses can and should be identified as the top of the bank of the channel carrying water or as the Ordinary High Water Mark line of a pond.
- c. Streams in the City may cross relatively steep terrain, and are likely to be combined with other valuable Natural Features, including valuable woodlands, wetlands and floodplains.

### 3. Protection Priorities

It is in the City's best interest to protect Watercourses in as natural a condition as possible, and to control storm water in watersheds in such a way that Watercourses are not damaged and eroded during storm events. While storm water is regulated by another section of this Chapter, the design of many elements on each site directly determines the way water is handled and what impacts it will have both on and off the site.

#### a. Highest Concern

Watercourses with natural areas around them (wetlands or native forest fragments), Watercourses integrated into steep terrain, and Watercourses still flowing in natural channels should be preserved as part of any Development proposal. Crossing locations should be kept to the minimum necessary to provide access. Wide buffers should be provided to maintain a corridor of for wildlife along stream ways. Where streams in these conditions exist on a site, they are likely the most important design element of the site. The design should capitalize on the value of these features and sustain them.

#### b. Midlevel Concern

Urbanized aboveground Watercourses are ones that no longer have much of a natural character, but have not been placed into a storm drain beneath the ground. Whenever possible, Development should restore these Watercourses and associated Natural Features and take advantage of them as a design amenity. Effort to control Erosion, sedimentation and contamination problems is strongly encouraged, as is the connection of natural corridors across properties.

#### c. Low-level Concern

Where Watercourses are already underground, flood plain capacity and function are the main concern. Restoration of the surface Watercourse is encouraged, particularly if the effort can assist in storm water control.

### 4. Mitigation

Watercourses should be crossed at the location where there is the least physical, scenic and biological impact upon the Watercourse and its surrounding Natural Features. If surrounding Natural Features must be disturbed to facilitate the crossing, they should be mitigated as prescribed in other sections of these Guidelines or by other code requirements.

## 5. Protection Measures

Tolerance for soil Erosion on any construction site in or near any Watercourse should be very narrow. Effective soil Erosion control and flood protection techniques should be devised and implemented, during and after construction. These techniques and devices need careful consideration.

## K. Wetlands

### 1. General

- a. The City's original wetlands were open meadows, predominantly fen/wet meadow ecosystems associated with Watercourses tributary to the Huron River. There were also pocket wetlands, often only showing water in the Spring and during wet Summers, throughout the flat forested landscape.
- b. Few original wetlands remain in Ann Arbor. The majority of them have been drained and destroyed, as a matter of past public policy. The quality of water in the Huron River after any storm event can clearly show how unwise these actions have been.
- c. Some wetlands remain. They can exhibit characteristics of their original ecosystems (which can be seen by the presence of sedges and forbs if they are open meadows, or by Woodland pond species if in native forest fragments). More likely, the wetlands which remain are highly disturbed and are dominated by only a few common species of plants (cattail or exotic loosestrife), or they have been overwhelmed by invasive exotics, including buckthorn and willows.

### 2. Identification

Wetlands are visible in low altitude aerial photos, particularly older ones prior to the invasion by exotic shrubs and trees. A map of potential Wetland areas is on file with PDSU. The boundaries of wetlands are further determined by considering vegetation and soils in the field.

### 3. Protection Priorities

#### a. Highest Concern

Large Wetland complexes, forested wetlands and wetlands along Watercourses, with native plant associations still intact or regenerating. These habitats should be carefully protected from Development and from effects of Development (no change in hydrology). In general, Wetlands with important native ecosystems cannot tolerate use as retention basins for storm water runoff from developed areas. A separate filter and retention system should be developed, so that impacts upon the Wetland are minimal.

#### b. Mid-level Concern

Disturbed wetlands with underlying hydric soils, such as on once farmed lands constitute genuine opportunity to restore some of the capacity and function and diversity of species removed from the City over the last 100 years. Maintaining and enhancing the biological and hydrological value and

function of these wetlands should be the primary concern. Use of these wetlands as retention basins can be acceptable, as long as there are separate filtration basins and as long as the volumes of water involved do not overwhelm the plant life which must be sustained in the wetland.

**c. Low-level Concern**

Low quality wetlands are those that have been greatly damaged, have been reduced to open water and/or a few species of plants, or are dominated by Invasive Species. Replacement or relocation of these wetlands is more acceptable, if they must be taken for Development. In many cases, these wetlands can be effectively repaired and used for storm water retention and filtration.

**4. Mitigation**

The requirements for mitigation of wetlands removed as a part of Development are provided in section 5.23.3. In order for a mitigation plan to be successful, the constructed Wetland should be located in an area with hydric soils. The control of invasive exotics is an important part of the design and implementation of any Wetland mitigation project.

**5. Protection Measures**

Where wetlands are to be used as a part of a storm water retention system, the Rules of the Washtenaw County Water Resources Commissioner (April 1996) should be followed to minimize negative impacts on the wetland. Section 5.23.6 provides requirements for protection of wetlands during construction.

**5.23.3. Wetlands and Watercourses**

**A. Purpose Statement<sup>178</sup>**

Preservation and enhancement of wetlands is essential to maintaining and improving the city's aesthetic character, its ecological stability, its economic well-being, its educational opportunities, and its quality of life. Wetlands are protected to help reduce damage to aquatic resources from Erosion, turbidity, siltation, and contamination. They are protected to minimize the loss of native plants and animals, to help preserve biological diversity and to minimize the loss of wildlife habitat within the city, and to sustain many benefits wetlands can help provide - including flood control, stormwater storage and release, ground water recharge, and water quality improvement.

**B. Wetland and Watercourse Open Space Purpose**

It is the intent of this section to require minimum Open Space adjacent to a Wetland or Watercourse and to regulate property within that Open Space in order to prevent physical harm, impairment or destruction of or the Wetland or Watercourse. It has been determined that, in the absence of such minimum open space, intrusions in or on Wetlands and Watercourses would occur, resulting in harm, impairment and/or destruction of the Wetland or Watercourse contrary to the public health, safety and general welfare. This regulation is based on the police power, for the protection of

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<sup>178</sup> Text from Sec. 5:200

the public health, safety and welfare, including the authority granted in the Zoning Enabling Act (PA 110 of 2006)).

### **C. Wetland and Watercourse Open Space Regulation**

1. Wetland and Watercourse Open Space shall be maintained in relation to all areas defined as a "natural feature" in Article VIII, unless and to the extent it is determined to be in the public interest not to maintain such Open Space.
2. Prohibited and permitted activities for Wetland and Watercourse Open Space shall be the same as the prohibited and permitted activities regulated or allowed in or on the Wetland, Watercourse or natural feature by City, State and Federal authority.

### **D. Wetland and Watercourse Open Space Authorization and Prohibition**

In conjunction with the review of plans submitted for authorization to develop property or otherwise undertake an operation in or on, or adjacent to, a natural feature, applicable Wetland and Watercourse Open Space shall be determined, and authorizations and prohibitions established, by the body or person undertaking the plan review, pursuant to Article V.

#### **5.23.4. Preservation of Wetlands<sup>179</sup>**

##### **A. Relationship to Other Permit Requirements<sup>180</sup>**

Approvals under this section 5.23 shall not relieve a person of the need to obtain other required permits nor shall issuance of another permit relieve a person of the need to obtain approval under this section 5.23, if applicable.

##### **B. Wetland Determination**

1. The physical boundary and extent of wetlands shall be identified by a professional having technical ability and experience sufficient to accurately identify Wetland boundaries.
2. Wetland determination shall be made using the same criteria as provided for Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, and administrative rules as amended.
3. To facilitate verification, the boundary of the Wetland shall be flagged in the field by the applicant prior to the application for a use permit.

##### **C. Activities That Require a Wetland Use Permit**

Except as otherwise provided by this section 5.23 or by a Wetland Use Permit obtained from the City, a person shall not:

1. Deposit or permit the placing of Fill material in a wetland;
2. Dredge, remove, or permit the removal of soil or minerals from a wetland;
3. Construct, operate, or maintain any use or Development in a Wetland including draining or directing water from an upland activity into a Wetland; and

<sup>179</sup> Text from Chapter 60 *Wetlands Preservation Ordinance*, as indicated. All provisions addressing procedures, definitions, nonconforming standards, and enforcement have been relocated to their respective articles in the new UDC.

<sup>180</sup> Text for next sections from Sec. 5:202 to 5:205.

4. Drain surface water from a Wetland.

#### **D. Non-regulated Wetland Activities**

The following activities and uses within a Wetland are not regulated by this section 5.23:

1. The activities which are allowed in a Wetland without a permit by Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
2. Stormwater retention/detention basins not intended nor acting as mitigation of any Wetland disturbed by Development.
3. Construction of or addition to a single or Two-Family Dwelling on an approved subdivision or condominium lot that is less than 3/4 acre in size and zoned solely for residential purposes where the Wetland is wholly contained on the lot.

E. The mitigation measures shown on the site plan or plat shall include:

1. A written description of the mitigation program.
2. Replacement calculations.
3. Planting plan, showing the location of trees, shrubs and ground cover.
4. Plant list, including botanical and common names, caliper sizes, root type, and height.
5. Timing schedule for the implementation of the mitigation measures.

F. Mitigation shall be provided on-site. However, where mitigation cannot be accomplished on the site, all or part of the mitigation may be provided on public land within the city if approved as part of the site plan or plat. Plans for off-site mitigation shall be included as part of the site plan or plat approval.

G. Alternative mitigation measures for not more than 50% of the required mitigation may be allowed by the approving body if each of the following conditions is met:

1. The alternative mitigation is consistent with this section 5.23.
2. The alternative mitigation is specifically approved by PDSU or City Council, depending on which is the approving body.
3. The alternative mitigation provides an overall ecological value to the site or the city that is at least as beneficial as the required mitigation.
4. The alternative mitigation meets one of the following standards:
  - a. It is a restoration or management of an important natural feature on the site or publicly owned land in the vicinity.
  - b. It provides funds for the management and restoration of important Natural Features or publicly owned lands in the vicinity.
  - c. It dedicates important natural areas to the City park system.
  - d. It provides funds to the City street tree planting program.

H. Where providing mitigation or alternative mitigation will cause undue hardship, the applicant may request relief from the approving body as part of the site plan

or plat approval. Any relief granted must be specifically approved by the Planning Commission or City Council, depending on which is the approving body. Relief will be granted only when the applicant provides evidence supporting all of the following findings:

1. The hardship is exceptional and peculiar to the property and results from conditions which do not exist generally throughout the city.
2. The condition upon which the requested relief is based is not a self-imposed hardship.
3. The relief proposed is the minimum amount necessary to make a reasonable use of the land.

#### 5.23.5. Wetland and Watercourse Open Space<sup>181</sup>

##### A. Wetland and Watercourse Standards

The Wetland and Watercourse Open Space shall be an area with boundaries and limitations determined in accordance with this section 5.23 in relation to respective types of Natural Features. Unless lesser requirements are allowed by 5.23.5.B, the Open Space requirements below shall apply.

##### 1. Wetland

An area within a line measured 25 feet horizontally from the boundary or edge of a Wetland as defined and regulated by sections 5.23 and 5.29.4.

##### 2. Ordinary High Water Mark of Watercourse

An area within a line measured 25 feet horizontally from the Ordinary High Water Mark of a Watercourse.

##### B. Determination of Public Interest

Upon determination that a proposed activity is in the public interest, and that the benefit which would reasonably be expected to accrue from the proposal shall be greater than the reasonably foreseeable detriments of the activity, authorization for the activity within the Wetland or Watercourse Open Space may be granted by the Planning Commission after complete review and public hearing, pursuant to Article V. The following general criteria shall be applied by the Planning Commission in making this determination:

1. The relative extent of the public and private need for the proposed activity.
2. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
3. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or Wetland and Watercourse Open Space provides.
4. The probable impact of the activity in relation to the cumulative effect created by other existing and anticipated activities in or near the natural feature to be protected.

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<sup>181</sup> Text from Sec. 5:51.

5. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and public health.
  6. The size and quantity of the Wetland and Watercourse Open Space being considered.
  7. The amount and quantity of the remaining Wetland and Watercourse Open Space.
  8. Proximity of the proposed activity in relation to the natural feature, taking into consideration the degree of slope, soil type and the nature of the natural feature to be protected.
  9. Economic value, both public and private, of the proposed activity and economic value, both public and private, if the proposed activity were not permitted.
- C. The mitigation measures shown on the site plan or plat shall include:
1. A written description of the mitigation program.
  2. Replacement calculations.
  3. Planting plan, showing the location of trees, shrubs and ground cover.
  4. Plant list, including botanical and common names, caliper sizes, root type, and height.
  5. Timing schedule for the implementation of the mitigation measures.
- D. Mitigation shall be provided on-site. However, where mitigation cannot be accomplished on the site, all or part of the mitigation may be provided on public land within the city if approved as part of the site plan or plat. Plans for off-site mitigation shall be included as part of the site plan or plat approval.
- E. Alternative mitigation measures for not more than 50% of the required mitigation may be allowed by the approving body if each of the following conditions is met:
1. The alternative mitigation is consistent with this section 5.23.
  2. The alternative mitigation is specifically approved by the Planning Commission or City Council, depending on which is the approving body.
  3. The alternative mitigation provides an overall ecological value to the site or the city that is at least as beneficial as the required mitigation.
  4. The alternative mitigation meets one of the following standards:
    - a. It is a restoration or management of an important natural feature on the site or public land in the vicinity.
    - b. It provides funds for the management and restoration of important Natural Features or public lands in the vicinity.
    - c. It dedicates important natural areas to the City park system.
    - d. It provides funds to the City street tree planting program.
- F. Where providing mitigation or alternative mitigation will cause undue hardship, the applicant may request relief from the approving body as part of the site plan or plat approval. Any relief granted must be specifically approved by the Planning Commission or City Council, depending on which is the approving

body. Relief will be granted only when the applicant provides evidence supporting all of the following findings:

1. The hardship is exceptional and peculiar to the property and results from conditions which do not exist generally throughout the city.
2. The condition upon which the requested relief is based is not a self-imposed hardship.
3. The relief proposed is the minimum amount necessary to make a reasonable use of the land.

#### 5.23.6. Protection During Construction<sup>182</sup>

##### A. Wetlands<sup>183</sup>

1. An applicant who has received a Wetland Use Permit under section 5.29.4 shall comply with the requirements of this section in connection with any construction or other activity on the property for which the use permit has been issued. Conditions may be established by the City to ensure that the intent of this section 5.23 is carried out. The activity or use shall be conducted so as to cause the least amount of disruption of the protected wetland, including, but not limited to, the following requirements:
  - a. Prior to any Development, clearing, filling, or other activity for which a use permit is required, protective construction fencing intended to restrict access shall be erected between the protected area and the area subject to Development. Such protection shall remain until it is authorized to be removed by the city, or until issuance of a final certificate of occupancy. Nails, wires, or other objects may not be attached to any tree, nor otherwise cause damage to any tree.
  - b. All protected Wetland and Watercourse areas within or adjacent to the use permit activity area shall be protected with barrier fencing at least 4 feet in height staked in place at 10 foot (minimum) intervals. No filling, excavating, or storage of materials, Debris, or equipment shall take place within the barrier fencing.
  - c. Where vehicle and Driveway access is permitted, any existing hydrological connection shall not be disrupted.
  - d. When the use of Fill is permitted, it shall be clean and free of garbage, refuse, toxic or contaminated material, or any material that through the action of leaching may cause degradation of surface or ground water quality.
  - e. Soil Erosion control Structures and measures shall be maintained, including, but not limited to, silt Fences, straw bale berms, and Sediment traps. The landowner shall provide for periodic inspections and maintenance of such installations throughout the duration of the project.

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<sup>182</sup> Text from Sec. 5:128

<sup>183</sup> Text from Sec. 5:215.



2. A copy of the City use permit and state permits, if applicable, shall be prominently displayed or available at the site. They shall be displayed continuously when authorized activities are conducted and for 10 days following completion. The owner shall allow City representatives to enter and inspect the Premises at any reasonable time, and failure to allow inspections shall constitute a violation of this section.

#### B. Natural Features

1. Natural Features shown on a site plan, a PUD site plan, or plat that are to be preserved shall be protected during construction. The following protection measures shall be shown on a drawing provided as part of the site plan, PUD site plan, or plat and followed during construction:
  - a. Protection measures for wetlands shall be provided through the Wetlands Use Permit process in section 5.29.4.<sup>184</sup>
  - b. Prior to any Development, Clearing or other activity for which a permit is required, barrier fencing shall be installed in the following locations to restrict access to protected Natural Features:
    - i) At the Limits of Soil Disturbance adjacent to Natural Features.
    - ii) At the perimeter of the Critical Root Zone of Landmark Trees which are located within a disturbance area. Where encroachments into the Critical Root Zone are allowed as part of an approved site plan or plat, the barrier fencing must be located at least 10 feet from the trunk of the tree at all points.
    - iii) At the edge of required Natural Features Open Space.
  - c. No filling, excavating or storage of materials, Debris or equipment shall take place within the Fenced area.
  - d. Barrier fencing shall be a minimum of 4 feet in height and shall remain in place in good condition until it is authorized to be removed by the Building Department.
  - e. Details of the barrier fencing shall be indicated on the plan, consistent with the City Public Services Area Standard Specifications.
- C. Any Woodland or Landmark Trees that are determined by the Public Services Area Administrator or designee to be dead, dying or severely damaged due to on-site construction activity within 3 years after issuance of a certificate of occupancy or final permit approval for Development authorized by an approved site plan, a PUD site plan, or plat shall be replaced by the property owner in the amount specified in the requirements for mitigation of Natural Features. Within the case of approved disturbances, replacement shall be at the rate required by section 5.23.2.G.4 or 5.23.2.H.4 within the case of unapproved disturbances, replacement shall be at the rate required by section 5.23.1.A.5.b.

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<sup>184</sup> This replaces a reference in the current code to "shall be protected as required by Chapter 60" since Chapter 60 no longer exists and the permit process will use the criteria and standards that were formerly in Chapter 60.

## 5.24. Signs<sup>185</sup>

### 5.24.1. Purpose

The purpose of this section is to regulate signage in all zoning districts so the City may: (a) ensure the health, safety and welfare of the residents of the City by prohibiting signage that creates a transportation hazard or otherwise adversely impacts public safety; (b) reduce visual clutter that is unsightly and distracting; (c) preserve architectural character of buildings and streetscapes, so they are not overwhelmed or obscured by signate; and, (d) promote the use of creative and appropriate signage which will enhance the economic viability of the City.

### 5.24.2. Applicability

Signs may be erected or maintained in the city only as permitted by this section 5.24 and subject to other restrictions contained in this Code.

### 5.24.3. Measurement of Sign Height<sup>186</sup>

#### A. Maximum Height

The maximum height of a Sign shall be measured from Grade or sidewalk to the highest edge of the Sign surface or its projecting Structure.

#### B. Minimum Height

The minimum Sign height shall be measured from Grade or sidewalk to the lowest edge of the Sign surface or its projecting Structure.

### 5.24.4. Exterior Business Signs

#### A. General

Each ground Floor Business is permitted exterior on-premises Signs. Such signs are permitted only in accordance with the following regulations and any other applicable provisions of this code.

#### B. Sign Area

Exterior Business Signs shall be permitted Sign Area totaling 2 square feet per one linear foot of ground floor frontage up to a maximum of 200 square feet.

#### C. Message Units

Exterior Business Signs shall be permitted a total of 10 message units and shall meet the placement standards contained in this section.

<sup>185</sup> Requirements that electric signs be installed consistent with Electric Code have been delted from this section because they are now addressed in the Sign Permit section. In addition, the requirement that sign installers be licensed is a state requirement and has been deleted from the code to avoid future conflicts.

<sup>186</sup> Text for this section moved from definitions for maximum and minimum sign height.

#### **D. Sign Area and Message Unit Bonus**

If all the Signs of a Business do not exceed a maximum of 15 feet, such Business shall be permitted Sign Area and Message Units of 20 percent more than would otherwise be permitted by this section.

#### **E. Placement**

##### **1. Attached to Building**

Signs attached to the Building shall not extend more than 3 feet above the Building or 4 feet from the wall of the Building. The extension from the wall or Roof shall be measured from the location of attachment. No portion of any Sign extending over the Public Right-of-Way shall be lower than 8 feet.

##### **2. Ground Signs**

Signs not structurally attached to the Building shall be at least 15 feet from any Lot Line of the Premises. Such Signs shall have a maximum height starting at 3 feet in height at the right-of-way line, and increasing 1 additional foot for each 2 feet the Sign is set back from the right-of-way line, provided that, if it is located within 20 feet of the Building, it may have the same maximum height as could a Sign located on the Building, provided that the height of any such Sign shall not exceed 25 feet.

##### **3. Marquee Signs**

Signs may be located on a Building marquee or awning that is over a public sidewalk provided that the Sign shall not project beyond the perimeter of the marquee or awning, shall not extend more than 3 feet above nor 1 foot below the marquee or awning, and no portion of any Sign extending over the Public Right-of-Way shall be lower than 8 feet.

#### **F. Area and Message Unit Exceptions**

The following Signs shall be exempt from the Message Unit and area limitations contained in section 5.24.4.A, but shall be subject to the placement regulations of section 5.24.4.B:

##### **1. Gasoline Price Signs**

A gasoline service station shall be permitted Signs on each pump island indicating the prices and types of gasoline and the type of service. The area of such Signs shall not exceed 20 square feet per pump island.

##### **2. Theater Signs**

Theaters shall be permitted 200 square feet of additional Signs designed for periodic message change which indicate the entertainment at the theater.

##### **3. Business Center**

A Business Center may have one Business Center Sign identifying, by name only, the Business Center and the Business contained therein. The Business Center Sign may have an area of 2 square feet for each 1 linear foot of Building Frontage, but not more than 200 square feet of total area. The placement of the Business Center Sign shall be as provided for Ground Signs in section 5.24.3.E.2.

#### **4. Alley Signs**

A Business with an entrance on an alley shall be permitted additional Sign Area of 1 square foot of Sign for each linear foot of alley frontage and 10 additional Message Units solely for Signs facing said alley.

#### **G. Message Unit Exceptions**

The Message Unit restrictions of section 5.24.4.A have the following exceptions, provided that the area and placement provisions of that section are met.

##### **1. Business without Ground Floor Frontage**

A Business without ground Floor frontage shall be permitted Signs having 10 Message Units to advertise that Business, provided that the total area of all Exterior Signs on any Building shall not exceed the total Sign Area permitted for Businesses in the Building having ground Floor frontage.

##### **2. Business with Frontage on More Than One Street**

A Business with frontage on more than 1 street may be permitted 10 additional Message Units on each additional street side.

##### **3. Business Name**

If the name of the proprietor of a Business exceeds 10 Message Units, said name may be displayed on each Street Frontage provided no other Message Units are displayed by that Business on said frontage.

#### **5.24.5. Interior Business Signs**

##### **A. Permanent**

A Business shall be permitted Interior Signs which occupy not more than 25% of the window area of each Floor level of that Business, provided that the Message Units on those Signs when combined with those on any Exterior Signs do not exceed the number permitted by section 5.24.4. If the permanent Interior Signs will exceed 25% of the window area of a Floor level of a Business, they shall be treated as Exterior Signs and shall be permitted only if they meet all the requirements of section 5.24.4.

##### **B. Temporary**

A Business shall be permitted temporary Interior Signs that occupy not more than 25% of the window area of said Business. No such Sign shall be displayed for more than 30 business days in any 60 day period.

#### **5.24.6. Residence Signs**

##### **A. Single-Family Dwellings, Two-Family Dwellings, and Townhouses**

Single-family and two-family dwellings and townhouses are permitted Signs having a total area of 3 square feet indicating the address and names of the occupants.

##### **B. Multiple-Family Dwellings**

Apartment houses, Fraternity Houses, Sorority Houses, cooperative houses, Group Housing, Assisted Living Dwellings, Accessory Bed and Breakfasts and Religious Assemblies are permitted Signs having a total area of 12 square feet indicating only

the address, the names of the occupants and the name, phone number and website of the Building or organization.

### **C. Residential Developments**

Residential developments of single and two-family homes and housing complexes of more than 1 apartment or Town House Building are permitted Signs identifying the residential development. Such Signs shall have an area of not more than 50 square feet and a height of not more than 8 feet. A residential development shall have a maximum of 2 such Signs and no more than 1 per entrance.

#### **5.24.7. Real Estate Signs**

Un-illuminated on-premises Real Estate Signs may be erected in accordance with the regulations of this section 5.24.7.

##### **A. Single and Two-Family Real Estate -- For Sale, For Rent and Contractor Signs<sup>187</sup>**

A single Sign advertising the sale or rent of a Single or Two-Family Dwelling or vacant property zoned for single or two-family dwellings, or identifying the contractors engaged in work that requires a building permit from the city, are permitted, subject to the following standards:

###### **1. Size**

Such Signs shall have a maximum height of 48 inches and a maximum width of 36 inches, including the support Structure and all riders, and with the bottom of the Sign a minimum of 6 inches from the ground.

###### **2. Placement**

Such Signs shall be set back at least 15 feet from the Public Right-of-Way and at least 5 feet from the outside edge of the sidewalk, or affixed to a Building, If a legally existing obstruction on the property prevents such Signs from being seen from the Public Right-of-Way, then the Sign may be affixed to or placed immediately in front of that obstruction, so long as the display face of the Sign is parallel to the right-of-way line, and so long as the Sign is not placed within the Public Right-of-Way.

###### **3. Installation and Removal**

Such Signs may not be installed until the dwelling or vacant property is listed for sale or rent, or the contractor has been issued a permit for the work to be done, and such Sign must be removed within 48 hours after the dwelling or vacant property is no longer available for sale or rent or the contractor's work has been completed.

##### **B. Other Real Estate For Sale and For Rent Signs**

A Sign with a total area not in excess of 12 square feet advertising the sale or rental of real estate other than single or two-family houses is permitted pursuant to a permit having a maximum duration of 120 days. It shall have a maximum height of 10 feet and shall be set back 25 feet unless attached to a permanent Building.

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<sup>187</sup> Sections for Single and Two-Family Real Estate for sale, rental and contractor signs have been combined for clarity and consistency.

### C. Other Real Estate Contractor Signs

Exterior signs identifying the builders or other construction contractors on a premise other than a single or two-family dwelling construction site are permitted, subject to the following standards:

1. There shall be a maximum of one Sign per frontage facing a public street that has a vehicular entrance.
2. The Sign shall have a maximum area of 50 square feet.
3. The Sign shall have a maximum height of 10 feet.
4. The Sign shall be set back a minimum of 25 feet from the Public Right-of-Way, or affixed to a permanent Building.
5. Only a builder or other construction contractor who is engaged in work, which requires a building permit from the city, may erect the Sign.
6. The Sign shall not be installed until the building permit has been issued for work being done by said builder or other construction contractor.
7. The Sign shall be removed at the completion of construction.

#### 5.24.8. Political Signs

##### A. General

A Sign whose message relates to a candidate for political office, or to a political party, or to a political issue or an ideological opinion, is permitted, subject to the following conditions.

1. Each Sign shall have a maximum height of 48 inches and a maximum width of 36 inches, including the support Structure and all riders, and shall have the bottom of the Sign a minimum of 6 inches from the ground.
2. The Sign described in subsection 1 above shall be set back at least 15 feet from the Public Right-of-Way and at least 5 feet from the outside edge of the sidewalk, or affixed to a Building. If a legally existing obstruction on the property prevents the Sign from being seen from the Public Right-of-Way when the Sign is placed in accordance with the foregoing placement requirements, then the Sign may be affixed to or placed immediately in front of that obstruction, so long as the display face of the Sign is parallel to the right-of-way line, and so long as the Sign is not placed within the Public Right-of-Way. Permission to locate such Signs on private property shall be obtained from the owner or occupant of the property on which such Signs are located.
3. A Sign that advocates or opposes a candidate for public office or a position on an issue to be determined at an election shall be removed not more than 18 hours after the election.
4. Other political Signs shall not be subject to any specified time limit but must be removed if they become dangerous or otherwise are prohibited by section 5.24.10.

**B. On Election Days**

The following provisions apply on election days only, to Signs that directly or indirectly make reference to an election, a candidate, or a ballot question and that are erected on property on which a public polling place is located. Such Signs are not subject to the placement requirements of 5.24.8.A, but no such Sign:

1. Shall be erected within 100 feet of any entrance to a Building in which a polling place is located;
2. Shall be erected in the Public Right-of-Way, except that such a Sign that complies with all other provisions of this section 5.24.8.B may be erected in that portion of a Public Right-of-Way not meant for pedestrian or vehicular traffic that is contiguous with and on the same side of the street as the property on which the polling place is located. Permission from the owner of the property on which the polling place is located shall not be required to erect such a Sign in the limited portion of the Public Right-of-Way that this 5.24.8.B permits;
3. Shall be erected such that it hinders or obstructs the free and safe passage of pedestrians and vehicles in the Public Right-of-Way;
4. Shall be erected more than 18 hours before the polls open; and,
5. Shall remain on the property on which the polling place is located or in the Public Right-of-Way more than 18 hours after the polls close.

**5.24.9. Other Signs Exempt from Sign Permit Requirements**

The following Signs do not require a sign permit.

- A. Address numbers with a numeral height not greater than 12 inches for residences and 24 inches for Businesses.
- B. Names of Building occupants painted on or attached to the Building with a letter height not greater than 2 inches.
- C. Exterior Signs having a total area of not more than 3 square feet on merchandise displayed within 6 feet of the front of the Building.
- D. Portable real estate "open house" Signs with an area not greater than 6 square feet. One such Sign may be located on the Premises being sold. No more than 2 additional such Signs are permitted and may be placed in the Public Right-of-Way, notwithstanding the prohibition in section 5.24.10.L, but a property owner shall have the right to remove and destroy or otherwise dispose of without notice to any person any Signs that are placed without his or her permission on his or her property, including Signs placed in that portion of the Public Right-of-Way that is an easement across the property. All of the Signs permitted by this section 5.24.9.D and pertaining to a single property may be displayed only for 6 hours during 1 day in any 7-day period. All such Signs shall be located so as not to interfere with the free passage of vehicular and pedestrian traffic upon the Public Right-of-Way, and so as not to constitute a Hazard to public safety.
- E. Paper notice placed on bulletin boards or on kiosks.
- F. Authorized Signs of the state or a political subdivision of state.

- G. Signs of a religious institution, school, Museum, community recreational facility or Library indicating the name, current displays or activities and having an area not greater than 50 square feet.
- H. Memorial Signs or tablets, names of Buildings and date of erection, when Cut into any masonry surface of a Building or when constructed of bronze or other incombustible material affixed to a Building.
- I. Flags bearing the official design of a nation, state, municipality, educational institution or noncommercial organization, provided that the flag pole is set back from the property line a distance of 1 foot for every 1 foot of pole height.
- J. Special event Signs, banners or search lights approved by the City Council or the city administrator or their designee.
- K. Permanent Signs on vending machines, gas pumps or ice containers indicating only the contents of such devices provided that such devices must be located within 10 feet of the Building. The Sign Area of each such device may not exceed 6 square feet
- L. Signs not exceeding 6 square feet each of which contain only noncommercial messages including designation of restrooms, telephone location, restrictions on smoking, door Openings and private traffic control and parking Signs.
- M. One Sign per Parking Lot not exceeding 3 square feet per Sign face and 6 feet in height identifying the Business and providing driving and parking information.
- N. Interior Signs up to 4 square feet indicating property is for sale or for rent.
- O. Plaques or Signs not exceeding 2 square feet designating a Building as a historical Structure.
- P. Business Signs not exceeding 2 square feet per Sign face containing information on credit cards and Business affiliations.
- Q. Temporary Signs as provided for in section 5.24.7.
- R. Political Signs as defined in Article VIII and as provided for in section 5.24.8.

#### 5.24.10. **Prohibited Signs**

The following Signs are prohibited

- A. Signs that incorporate in any manner or are illuminated by any flashing or moving lights other than for conveyance of noncommercial information that requires periodic change. This section does not prohibit barber poles that meet the other requirements of this section 5.24.
- B. Exterior balloons, banners, pennants, spinners and streamers, or any other similar item or material intended to direct attention to any person, place or thing and which is visible from any Public Right-of-Way, public or private school, or land zoned PL, except special event signs per Section 5:24.8.J.<sup>188</sup>

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<sup>188</sup> Revisions for clarity and reflecting current practice.



- C. Exterior string lights used in connection with a commercial Premises, other than holiday decorations.
- D. Any Sign which has any visible motion other than permitted flags or banners and other than for the conveyance of noncommercial information requiring periodic change.
- E. Any Sign which is structurally or electrically unsafe.
- F. Any Sign erected on a tree or utility pole except Signs of any political subdivision of this state.
- G. Any Business Sign or Sign Structure now or hereafter existing that no longer advertises a bona fide Business conducted or a product sold.
- H. Any portable, freestanding Exterior Sign not permanently anchored or secured to either a Building or the ground, except as provided in section 5.24.9.D.
- I. Any Sign on a motor vehicle or trailer that is parked in front of a Business for the purpose of advertising a Business or product or service of a Business located on the Premises where such vehicle is parked.
- J. Any Sign on a motor vehicle or trailer that projects more than 6 inches from the surface of that vehicle when it is parked at a location visible from a public street.
- K. Any Sign Structure or frame no longer containing a Sign.
- L. Any Sign erected on the Public Right-of-Way, except for Signs of a political subdivision of this state, and except for portable "open house" Signs to the extent they are permitted by section 5.24.9.D and except for political Signs to the extent they are permitted by section 5.24.8.B. The City may remove and destroy or otherwise dispose of, without notice to any person, any Sign that is erected on the Public Right-of-Way in violation of this subsection.

**5.24.11. Off-premise Signs**

Off-premise Signs are permitted only in accordance with the following regulations and any other applicable provision of this Code:

- A. No Off-premise Sign shall have a total area of all faces in excess of 700 square feet or 350 square feet per Sign face.
- B. An Off-premise Sign shall have a maximum height not greater than 25 feet.
- C. An Off-premise Sign shall not be closer than 300 feet to any other Off-premises Sign.
- D. An Off-premise Sign shall have a maximum height of 1 foot for each 2 feet it is set back from any Public Right-of-Way and must not be closer than 50 feet to any other On-premises Sign and 500 feet to any, school, residential dwelling, Religious Assembly or Park, Recreation or Open Space.
- E. No Off-premise Sign shall be erected at any time when there are 30 or more Off-premise Sign faces currently in the city.

5.24.12. **Illumination**

- A. Signs permitted by sections 5.24.4, 5.24.5, 5.24.6, 5.24.11 and subsections A, B, G, K, and L of section 5.24.9 may be illuminated by artificial light of any color. Signs permitted by section 5.24.6 and subsections A and G of section 5.24.9 may be illuminated only by white artificial light.

## 5.25. Outdoor Lighting

5.25.1. **Applicability**

All outdoor lighting shall comply with the following standards, unless explicitly exempted by the terms of this section 5.24.

5.25.2. **All Exterior Lighting**

All exterior lighting devices shall be adequately shielded and screened so that no light will glare directly onto any Public Right-of-Way or property principally used for residential purposes. Lighting devices shall be arranged and kept at a level so that the amount of light projected onto property principally used for residential purposes does not exceed one tenth of a foot candle.<sup>189</sup>

5.25.3. **Parking Lots**<sup>190</sup>

- A. Parking lots and bicycle parking areas constructed between October 1, 1984 and July 15, 1987:
1. Shall be illuminated from one-half hour after sunset to one-half hour before sunrise at the levels specified in Table 5:25-1 below.
  2. Shall be designed to provide illumination levels at all unobstructed points of the parking lots in accordance with Table 5:25-1. Illumination levels shall be measured 3 feet above the lot surface.
  3. Shall be designed and maintained so the illumination is evenly distributed,
  4. Shall be designed and maintained so that it does not adversely affect the vision of motorists on public streets.<sup>191</sup>

<sup>189</sup> Text is from current code sec. 5:605. Revised to clarify applicability to all outdoor lighting, which is current practice.

<sup>190</sup> Text from Ch. 59, Sec. 5:168(8) and (9) and 5:167.1(3). Included bicycle parking areas and deleted separate paragraph with same standards below.

<sup>191</sup> Integrates text from current code secs. 5:168(8), 5:168(9) and 5:168.1(3) and removes duplication with 5.24.2 above.

**B. Illumination Levels**

TABLE 5:25-1: ILLUMINATION LEVELS		
USE	MINIMUM ILLUMINATION LEVEL (FOOTCANDLES)	MAXIMUM UNIFORMITY RATIO
Residential, church, school, private swimming club, and child care facility		
All Parking Lots	0.4	10:1
Nonresidential		
Small (5–10 spaces)	0.4	10:1
Medium (11–99 spaces)	0.6	10:1
Large (100 or more spaces)	0.9	10:1
Bicycle Parking Spaces	0.4	10:1

**C. Exceptions to Illumination Levels**

1. Nonresidential lighting levels may be reduced to 0.4 footcandle with a maximum uniformity ratio of not more than 10:1 after 2:00 a.m., or after established hours of operation as filed with the City Building Department. Established hours of operation are one-half hour before to one-half hour after published business hours.
2. Parking lots that were constructed or site planned before July 15, 1987 are grandfathered and have the option to continue to comply with the standards under which they were approved or to comply with the revised standard in Table 5:25-1. Parking lots constructed or site planned after July 15, 1987 shall comply with current parking standards.<sup>192</sup> Church, school, private swimming club, and child care facility parking lots in residential neighborhoods, and site planned after July 15, 1987, may reduce lighting levels by up to 50% after midnight with the maximum uniformity ratio not to exceed 50:1. Lighting plans and specifications for such illumination must be submitted pursuant to this section 5.25 during the site plan approval process.

**5.26. Fences<sup>193</sup>****5.26.1. Applicability**

- A. All permanent Fences shall be subject to the requirement of this section 5.26.
- B. Temporary construction Fences and Fences required for protection around excavations shall comply with Article 13 of the City Construction Code. Such Fences shall not be maintained for a period greater than a year without special approval of the Zoning Board of Appeals.

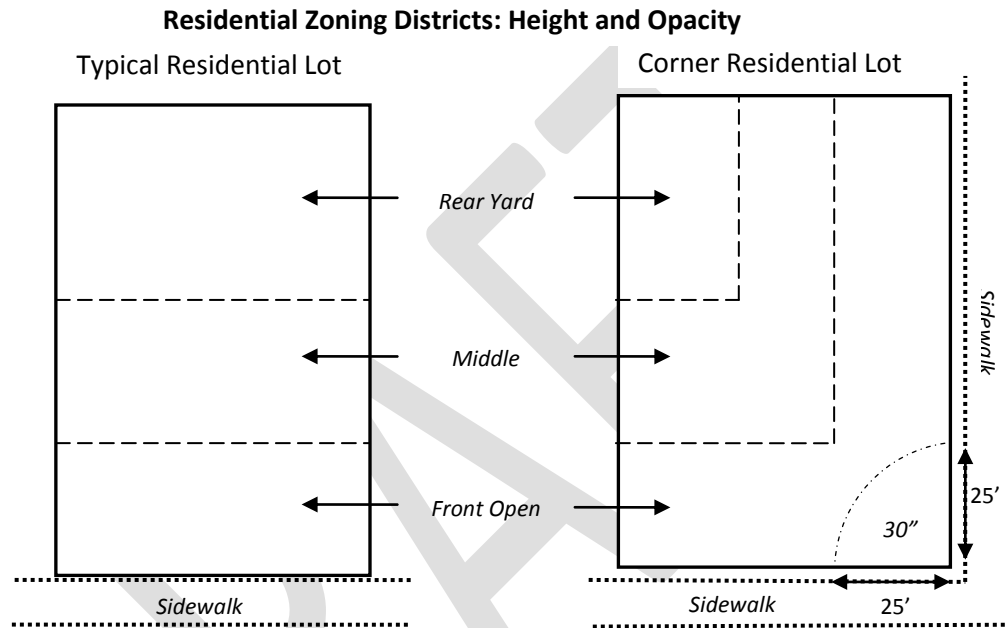
<sup>192</sup> Text revised to clarify and reflect current practice.

<sup>193</sup> Text from current code Chapter 104, with significant reorganization.

### 5.26.2. Standards

A. Fences located in residential zoning districts (See also figure below):

1. In the required Front Open Space shall not exceed 4 feet in height and 50% opacity.
2. Shall not exceed 6 feet in height and 80% opacity in any part which is 25 feet behind the front setback line.
3. Shall not have a height of greater than 8 feet at locations other than those described in subsections 1 and 2 above.



B. In other than residential zoning districts, Fences in the required Front Open Space may be extended to 12 feet in height without restriction as to solid matter or closed construction.<sup>194</sup>

C. Fences located within 25 feet of the intersection of 2 or more street Lot Lines where a setback is required for a Building shall not be higher than 30 inches above the sidewalk grade.

D. In determining the maximum height of a Fence that separates 2 adjoining lots and that runs within 2 feet of the Lot Line, the maximum height at any point shall be determined from the highest Grade at that point within 2 feet on either side of the Lot Line.

E. Nonresidential Fences not within a required Open Space shall not exceed the maximum height limit for the district in which they are located and shall not be subject to opacity restrictions.

### 5.26.3. Prohibitions

No Fence of the following types shall be constructed or maintained:

<sup>194</sup> Revised to clarify that this applies to fences in front yard open space.

1. Any Fence that is charged or connected with an electrical current;
2. Any Fence that contains spikes, nails, barbs (including barb wire), or other pointed instruments, or any cleaved selvages or sharp points on wire Fences that have not been removed or bent to eliminate any sharp extrusions.<sup>195</sup>

**5.26.4. Maintenance<sup>196</sup>**

Fences shall be maintained so as not to endanger life or property. Any Fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance.

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<sup>195</sup> Revised to group prohibitions together.

<sup>196</sup> Text from Sec. 8:435 *Fences*.

# Article V: Administrative Bodies and Procedures

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## 5.27. Administrative Bodies and Officers

### 5.27.1. Planning and Development Services Manager<sup>197</sup>

#### A. General

The provisions of this Chapter shall be administered by the PDSU Manager. Whenever this Chapter refers to the PDSU Manager, the Manager may delegate that duty to a designated person or entity unless otherwise prohibited by law.<sup>198</sup>

#### B. Duties and Limitations

1. The PDSU Manager shall have the power to grant zoning compliance permits and the Building Official shall have the power to issue certificates of occupancy. Each shall make inspections of buildings or Premises necessary to carry out his/her duties in the enforcement of this Chapter.
2. Every application for a zoning compliance permit for excavation, construction, moving, alteration, or change in type of use or type of occupancy shall be accompanied by a written statement and plans or plats, drawn to scale, showing the following in sufficient detail to enable the PDSU Manager to ascertain whether the proposed work or use is in conformance with the provisions of this Chapter:
  - a. The actual shape, location, and dimensions of the lot; if the lot is not a Lot of Record, sufficient survey data to locate the lot on the ground.
  - b. The shape, size, and location of all Buildings, or other Structures, to be erected, altered or moved, and of any other Buildings, or other Structures, already on the lot.
  - c. The existing and intended use of the lot and of all Structures upon it.
  - d. Any other information concerning the lot, adjoining lots, or other matters as may be essential for determining whether the provisions of this Chapter are being observed.
3. If the proposed excavation, construction, moving, alteration, or use of land as set forth in the application are in conformity with the provisions of this Chapter, the PDSU Manager shall issue a zoning compliance permit, however:
  - a. Issuance of a zoning compliance permit shall not be construed as waiving any provision of this Chapter.

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<sup>197</sup> Text from Art. VIII, starting at Sec. 5:90.

<sup>198</sup> In the current code this text refers to Ch. 55. The second sentence is new in order to avoid having to repeat "or designee" throughout the Chapter.

- b. The PDSU Manager or the Building Official is not permitted to grant exceptions to the actual meaning of any clause, order, or regulations contained in this Chapter to any person making application to excavate, construct, move, alter, or use either Buildings, Structures or land.
  - c. The PDSU Manager or the Building Official is not permitted to make changes in this Chapter or to vary the terms of this Chapter in carrying out his/her duties as PDSU Manager or as Building Official.
  - d. The PDSU Manager or the Building Official shall issue a permit when an applicant's permit complies with the conditions of this Chapter, regardless of the effect of such a permit on contracts, such as deed covenants or private agreements.
  - e. If any application for such permit is not approved, the PDSU Manager or the Building Official shall state in writing the cause for such disapproval.
4. Fence Regulations Authorized.<sup>199</sup>

The PDSU may make such other rules and regulations, not in conflict herewith nor inconsistent with public safety, as may be necessary to effectuate the purposes of section 5.26.

#### 5.27.2. Zoning Board of Appeals<sup>200</sup>

##### A. Powers<sup>201</sup>

The Zoning Board of Appeals (ZBA) shall have all powers granted by state law to such boards, including the following specific powers:

1. Administrative review: To hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning map; to hear and decide matters specifically referred to the ZBA or upon which the ZBA is required to pass under this Chapter; to hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance in this Chapter.<sup>202</sup>
2. Variances: To authorize variances pursuant to section 5.29.5.
3. Non-conforming Uses: To approve the substitution of one Nonconforming Use for another, as provided in section 5.30.1.A, and to approve the continuation or replacement of a Nonconforming Structure as provided in section 5.30.1.B.<sup>203</sup>

##### B. Limitations on the Powers<sup>204</sup>

1. The concurring vote of 5 members of the ZBA shall be necessary:

<sup>199</sup> Text from Sec. 8:437 *Fences*.

<sup>200</sup> Text from Sec. 5:97.

<sup>201</sup> Text from Sec. 5:98. Text authorizing ZBA to interpret off-street parking regulations was deleted as inconsistent with general power of PDSU to interpret the Code.

<sup>202</sup> Requirement that appeals be filed within 60 days was moved to the Appeals section below.

<sup>203</sup> Subsection 4, which allows the BZA to reduce certain fence requirements upon appeal, has been deleted because this procedure is, in fact, handled as a variance.

<sup>204</sup> Text from Sec. 5:100.

- a. To reverse any order, requirement, decision or determination of any administrative official or body;<sup>205</sup>
  - b. To decide in favor of the applicant on any matter upon which the ZBA is required to pass under this Chapter; or
  - c. To grant a variance of this Chapter.
2. Every decision of the ZBA shall be based upon finding of fact and every finding of fact shall be supported in the record of the proceedings of the ZBA.
  3. The ZBA does not have the power to change the terms of this Chapter, effect changes in the zoning map, add to the uses permitted in any zoning district or grant use variances.<sup>206</sup>

### C. General Provisions

#### 1. Conditions of Approval

The ZBA may attach conditions to any affirmative decision, provided such conditions are in accordance with this Code and the Zoning Enabling Act, as amended. Conditions may be in addition to those specifically called for in this Chapter, such as the location, character, landscaping, or use reasonably necessary to further the intent of this Chapter.

#### 2. Security

In order to secure the performance of conditions pertaining to parking lots or the installation of landscaping, decorative walls or Fences, the ZBA may require posting of a cash or Security bond in an amount sufficient to cover the cost of complying with such conditions.

#### 3. Variance Term

A variance may be limited to a time period during which a stated condition continues to exist.

### D. Adoption of Rules of Procedure<sup>207</sup>

1. Rules and regulations, prescribing Zoning Board of Appeals procedure for the performance of its authorized powers, shall be adopted by the Zoning Board of Appeals and made available to the public.
2. The procedures before the Zoning Board of Appeals shall be in accordance with the procedures established by Zoning Board of Appeals' rules and regulations, as specified in section 1:198 of Chapter 8 of Title I of the Code, as well as with the provisions of this Chapter and applicable state law.

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<sup>205</sup> Expanded to cover reversal of decisions of bodies as well as individuals, to match current practice.

<sup>206</sup> Text from Sec. 5:100(3), reworded for clarity.

<sup>207</sup> Text from Sec. 5:101.



### 5.27.3. Planning Commission

#### A. Regulations<sup>208</sup>

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 Planning 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.

### 5.27.4. Design Review Board<sup>209</sup>

#### A. Membership

The Design Review Board shall consist of 7 members nominated by the mayor and approved by the city council. In making appointments of members of the Design Review Board, the City Council shall appoint persons who, insofar as possible, have an interest in the design of the built environment and its relationship to the downtown and the broader community. To support a comprehensive design review, 2 members of the Design Review Board shall be landscape architects, 2 shall be architects, one shall be an urban planner, one shall be a developer, and one shall be a construction contractor.

#### B. Term

Members of the Design Review Board shall serve for 3-year terms. The terms of Office of the first Design Review Board members shall be fixed by the City Council so that the terms of 3 members will be for 1 year, 2 members will be for 2 years, and 2 will be for 3 years. After the initial board is formed, all members thereafter will be appointed for 3 years.

#### C. Powers and Duties

The Design Review Board shall have the following powers and duties:

1. To review the design of certain downtown projects listed in section 5.29.12.B;
2. To provide comments to property owners, developers and architects on the proposed project design in relation to the Downtown Design Guidelines;
3. To report annually to City Council regarding the effectiveness of the design review process and make recommendations for any changes to the Downtown Design Guidelines; and
4. To have all other powers and duties granted by the City Council by resolution.

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<sup>208</sup> Text from Sec. 5:137 (Subdivisions). Section may no longer be necessary after integration of Land Development Regulations.

<sup>209</sup> Section added per Ord. 11.07, then called Design Review Board for certain downtown properties.

### 5.27.5. City Council

The City Council is legislative body for the City of Ann Arbor and has final authority for adoption of and amendments to this Chapter 55 and the related zoning map, and for all other matters for which a role for City Council is indicated in Table 5:27-1 Procedures Summary Table.

### 5.27.6. Summary Procedures Table

#### A. Using the Table

In Table 5:27-1, the initial “R” indicates that the body has authority to make a recommendation to another body regarding the application, but does not have the power to make a decision on the application. The initial “D” indicates that the body has authority to make a decision regarding the application. The initial “A” indicates that the body is authorized to hear appeals of that type of decision. The column for “Courts” is not intended to create additional rights to appeal not recognized by the courts of Michigan, or to indicate that the City recognizes a particular right of appeal, but to indicate that there is no body within the City authorized to hear an appeal of that type of decision and that any effort to find relief from the City’s decision will need to be sought outside the City government.<sup>210</sup>

TABLE 5:27-1: PROCEDURES SUMMARY TABLE									
Legend R = Recommendation D = Decision A = Appeal M= Mailed Notice S = Sign Notice  Type of Application	Section	Public Notice Required ?	Citizen Participation		Review, Decision, and Appeal Authority				
			Notification Required ?	Meeting Required ?	Planning & Development Services	Zoning Board of Appeals	Planning Commission	City Council	Courts
Zoning Compliance Permit	5:28.1	N	N	N	D	A			
Sign Permit	5:28.2	N	N	N	D	A			
Grading Permit	5:28.3	N	N	N	D	A			
Wetlands Use Permit	5:28.4	N	N	N	R[1]		R	D	A
Variance	5:28.5	Y	N	N	R	D			A
Special Exception	5:28.6	Y	Y	N	R		D		A
Site Plans for PC approval	5:28.7	Y	Y	Y/N	R	A <sup>211</sup>	D		
Site Plans for CC approval	5:28.7	Y	Y	Y/N	R		R	D	A
Area Plans	5:28.8	Y	Y	N	R		R	D	A
Subdivision	5:28.9	Y	Y	Y/N	R		R	D	A
Land Division	5:28.9	N	N	N	D		A		
Rezoning	5:28.10	Y	Y	Y	R		R	D	A
PUD /Planned Project	5:28.11	Y	Y	Y	R		R	D	A

<sup>210</sup> This introductory language and table are new, and illustrate current roles and responsibilities with respect to the Code sections included in this UDC.

<sup>211</sup> City: For discussion.

<b>TABLE 5:27-1: PROCEDURES SUMMARY TABLE</b>									
<b>Legend</b> R = Recommendation D = Decision A = Appeal M= Mailed Notice S = Sign Notice  <b>Type of Application</b>	Section	Public Notice Required ?	Citizen Participation		Review, Decision, and Appeal Authority				
			Notification Required ?	Meeting Required ?	Planning & Development Services	Zoning Board of Appeals	Planning Commission	City Council	Courts
Chapter Text Amendment	5:28.12	Y	N	N	R		R	D	A
NOTES: [1] Review of Wetlands Permits is by Systems Planning Unit rather than PDSU									

## 5.28. General Procedures

The following procedures apply as applicable to the specific procedures listed in section 5.29, unless inconsistent with requirements applicable to a specific procedure in section 5.29 or with requirements elsewhere in this Chapter.<sup>212</sup>

### 5.28.1. Public Involvement Requirements<sup>213</sup>

#### A. Purpose

The intent of this section 5.28.1 is to:

1. Ensure that applicants seeking approval of planned projects, planned unit Development zoning district, and amendments to the zoning map and other applications 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. Provide clear expectations and formal guidance for applicants 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. Facilitate ongoing communications between applicants and interested or potentially affected citizens throughout the application review process.

#### B. Type 1 Applications

Before the PDSU may accept an application for a Type 1 application, the following requirements shall be completed by the applicant. For purposes of this section 5.28.1, a Type 1 application includes any application for a new or amended planned project, a new or amended planned unit Development zoning district, an amendment to the zoning map, a proposed project containing over 80 residential units; a proposed project over 65 feet in height; a proposed project containing over 50,000

<sup>212</sup> This introductory text is new.

<sup>213</sup> Text from Sec. 5:110 and 5:135, including edits from Ord. 08-29

square feet of nonresidential useable Floor area; and any proposed project that may require additional citizen participation depending on the scope, nature or any unique or unusual characteristics as determined by the PDSU Manager:

**1. Preliminary Meeting**

The applicant shall meet with the PDSU to review the requirements set forth in this section 5.28.1.

**2. Required Notification<sup>214</sup>**

The applicant shall mail written information about citizen participation to all property owners, addresses and registered neighborhood groups within 1,000 feet of the proposed project site, as well as the PDSU, at least 10 business days prior to the date of the citizen participation meeting. Addresses shall be provided by the PDSU. An electronic copy of the information must also be provided to the PDSU at least 10 business days prior to the date of the citizen participation meeting to be forwarded to other interested citizens registered with the PDSU. At a minimum, the written information shall include all of the following in a format provided by the PDSU:

- a. 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 applicant.
- b. A statement that an application is being prepared for submittal along with a written description of the proposal and a conceptual sketch of the Development and site plan.
- c. The applicant's schedule for citizen participation meetings, the anticipated application submittal date and the anticipated City review and approval schedule.
- d. The date, time, and location of the meetings.
- e. How those sent notices will be provided an opportunity to discuss the application with the applicant and express any concerns, issues, or problems they may have with the proposed project.

**3. Citizen Participation Meeting**

The applicant shall hold at least one citizen participation meeting at least 10 business days prior to the established application submittal deadline. The meeting shall be organized and held in accordance with the Citizen Participation Meeting Guidelines provided by the PDSU.

**4. Final Citizen Participation Report**

The applicant shall provide a written report in a format provided by the PDSU on the results of its citizen participation activities along with the required application. At a minimum, the report shall include all of the following information in a format provided by the PDSU:

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<sup>214</sup> Changed "Required Notification" to avoid confusion with public notice provisions.

- a. Detailed description of the applicant'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;
- b. 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; and
- c. A written summary of comments, concerns, issues, and problems expressed by citizen participants; a statement of how the applicant has addressed or intends to address these concerns, issues or problems, or why a concern, issue or problem cannot or will not be addressed.

### **C. Type 2 Applications**

Type 2 Applications include any other type of application that requires a public hearing under this Chapter but is not covered by section 5.28.1.B. For Type 2 applications, the following requirements shall be completed by the applicant:

#### **1. Required Notification**

The applicant shall mail written information about citizen participation to all property owners, addresses and registered neighborhood groups within 500 feet of the proposed project site, as well as the PDSU, within 5 business days of acceptance of the application by the PDSU. Addresses shall be provided by the PDSU. An electronic copy of the information must also be provided to the PDSU within 5 business days of acceptance of the application to be forwarded to other interested citizens registered with the PDSU. At a minimum, the written information shall include all of the following in a format provided by the PDSU:

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

#### **2. Citizen Participation Report**

The applicant shall provide the PDSU 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 application.

### **D. Waiver of Requirements<sup>215</sup>**

The PDSU Manager may waive these requirements for applications to amend the zoning map when:

1. The requested zoning designation is PL (Public Land);
2. The application is to annex a parcel of less than 2 acres and zone the parcel for single-family residential use; or

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<sup>215</sup> Text is from Sec. 5:110(4).

3. There is no proposed change in land use and no Development is proposed.

#### 5.28.2. Application Filing Requirements

Application forms and submittal requirements for all types of applications, permits, and approvals referenced in this Article V can be obtained from the PDSU. The required materials shall include but not be limited to those materials required by the City to show full compliance with this Chapter and all other applicable city, state, and federal laws.

No application under this Chapter shall be considered complete, and no application under this Chapter shall be circulated for review or approval, until all of the required materials have been submitted and all applicable fees have been paid. If the PDSU Manager determines that the application is incomplete, it shall be returned to the applicant for completion and re-filing of the application.<sup>216</sup>

#### 5.28.3. Fees<sup>217</sup>

The following fees are authorized by this Chapter and shall be by resolution of the City Council upon the recommendation of the city administrator.<sup>218</sup>

##### A. Administration Fees<sup>219</sup>

Before any permit shall be issued covering Building or other operations regulated by this Chapter, an administrative fee shall be paid.

##### B. Zoning Map Amendment Fees<sup>220</sup>

1. Zoning map amendment fees may be reduced by resolution of the City Council by not more than 50% of the specified fees and must be based on a finding that the Development would provide Affordable Housing for Lower Income Households.
2. Filing and review fees for amendments to the zoning map shall apply also to the owners of newly annexed property that require a City zoning classification.
  - a. If the amendment would require more than 1 classification, the fee shall be computed separately for each classification based on the size of the classification applied for.
  - b. Any amendment to a zoning application (excepting technical amendments to correct minor errors in description) shall be accompanied by a fee equal to 1/2 the fee required for the amending classification.
  - c. In the event that an application is withdrawn by written request before the publication of the notice of public hearing, the City Clerk shall reimburse the application 1/2 of the required filing fee. In no other case shall any reimbursement be granted.

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<sup>216</sup> This is new text reflecting the City's current practice, with wording revised to clarify that it applies to all applications. Some of the text is currently found in the subdivision requirements of Sec. 5:25.

<sup>217</sup> Repetitive text from Sec. 5:131 and Sec. 5:102 was not carried over.

<sup>218</sup> Introductory text is new. This consolidates text in several current code sections establishing the duty to pay fees.

<sup>219</sup> Text from Sec. 5:93.

<sup>220</sup> Text from Sec. 5:108(3) and (4) (Amendments). Wording revised for clarity.

### **C. Wetland Use Fees<sup>221</sup>**

The use permit fee will be for review of application and plans, and field inspections. A property owner may request of the public services area administrator a preliminary assessment of the site to determine whether or not the site will be affected by provisions of this Code addressing Wetland use and permitting. No fee shall be charged for this determination.

### **D. Grading Fees**

Grading permits and inspection fees are subject to the following provisions:

1. Inspection fees are to be paid prior to the issuance of a certificate of occupancy and release of the cash bond associated with the Grading permit. Should construction activities begin prior to the issuance of a Grading permit, the permittee is subject to double the plan checking and inspection fees, as determined by the PDSU Manager.
2. A monthly inspection fee shall be assessed for land not stabilized or subject to accelerated soil Erosion, except for the construction of or addition to one single or Two-Family Dwelling or accessory Structure on a parcel zoned solely for residential purposes.
3. An additional inspection fee shall be assessed for each inspection following the issuance of a correction notice for corrections to be performed in less than one month.
4. Unpaid fees assessed in accordance with this Chapter shall become a debt to the City from the land owner and may be collected as a single lot assessment under section 1:292 of this Code, or collected from the cash bond for the project, or in any other manner in which an indebtedness due the City may be collected.

### **E. Reimbursements<sup>222</sup>**

Reimbursements of fees shall be offered as established by resolution of the City Council upon recommendation of the city administrator.<sup>223</sup>

## **5.28.4. Natural Features Protection<sup>224</sup>**

### **A. Applicability**

When Natural Features exist on a site proposed to be developed, the petition will be subject to the following City review process:

#### **1. Natural Features Determination**

The petitioner contemplating a project requiring City review is responsible for determining whether Natural Features exist on the site. This determination can be made by outside consultants retained by the petitioner. City staff will confirm these determinations during the review process.

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<sup>221</sup> Text from Sec. 5:217.

<sup>222</sup> Relocated to be the last subsection in the fee discussion

<sup>223</sup> From Ord. 10-19 replacing earlier reimbursement text.

<sup>224</sup> Text from Land Development Regulations, Sec. 1.4: City Review Process (Guidelines for the Protection and Mitigation of Natural Features).

## **2. Preparation of Required Plans**

This Chapter specifies what information must be shown on plans submitted for City review. Prior to submitting a plan required by this Chapter, the petitioner should meet with City staff to review the proposed site layout and consider suggestions for complying with City requirements. In addition, petitioners may wish to consult with experts on questions regarding the type, extent, quality, and management needs of Natural Features, and on the impacts of various design Approaches on these features.

## **3. Plan Submission**

When at least one natural feature is determined to exist on a site a Natural Features statement of impact must be provided. The statement will contain the following information:

## **4. A Site Inventory Map**

This map must clearly show the locations and types of all existing Natural Features on the site and extending 50 feet beyond the property lines. The drawing should delineate edges of woodlands and wetlands, show buffer areas, show Watercourse streambanks, pond ordinary high water marks, floodways, and floodplains. Landmark Trees on the site should be located by numbered dots, with an accompanying database table of corresponding species and size listings.

## **5. Natural Features Protection Plan**

This plan must delineate Natural Features to be retained on the site or excluded from Development. Lines should show the Limits of Soil Disturbance expected on the site. Protective measures such as barrier fencing, restrictions on traffic and storage of materials under trees, soil Erosion control measures, etc. are also to be shown on site plan submissions. In some cases, this plan may include information on how the retained Natural Features are to be sustained on the site.

## **6. An Alternative Analysis**

A report will be made which displays and discusses the alternative approaches and designs that were considered in arriving at the design proposed, in an effort to minimize disturbance to Natural Features on the site. A written justification will be made as to why the design proposed must cause the degree of disturbance to Natural Features planned, and explaining how the mitigation proposed is a wise course of action.

## **7. Mitigation Plan**

The mitigation plan will show how Natural Features that will be disturbed or taken are proposed to be mitigated.

## **B. City Staff Review/Analysis of Alternative Designs**

PDSU staff will coordinate the proposal's review by various City departments. Staff will work with the petitioner to resolve departmental comments. In addition, City staff will evaluate the alternative analysis to determine if the proposal represents the least disruptive option. Once the petitioner has responded to departmental



comments, staff will develop a written report for the Planning Commission, which will include recommended action in motion form. If a Development agreement is negotiated, a copy of it will be attached to the report submitted for the review of the Commission.

### **C. Planning Commission and/or City Council Review**

Once information and plans submitted to the City are complete, the formal public review process begins with the Planning Commission.<sup>225</sup>

### **D. Permits**

Permits may be applied for at the Building Department after the petitioner has received notice, in writing, of official City approval of plans. Generally the first permit issued will be a Grading permit. All natural feature protection measures specified in the approved plans must be installed and maintained on the site throughout construction. Inspections are conducted to see whether Sedimentation and Erosion controls and protective barrier fencing are in place and are being maintained, whether limits of construction and barrier fencing are being observed, including around trees, whether pavements and streets are clean of soils, whether Debris is properly contained on the site, whether site work is proceeding according to plan.

### **E. Natural Features Statement of Impact<sup>226</sup>**

When a site plan, a PUD site plan, or final preliminary plat proposes the Development of land containing Natural Features, a Natural Features statement of impact shall be submitted. The following information shall be provided in the Natural Features statement of impact:

1. A land site inventory identifying the location of existing Natural Features and containing a written description of their quality, character, and health.
2. A Natural Features protection plan identifying Natural Features proposed to be preserved.
3. When Natural Features are proposed to be removed or disturbed, an alternative analysis report containing the following information:
  - a. Alternative plans that were considered that would limit the disturbance or removal of Natural Features on and adjacent to the site.
  - b. Justification for selecting the proposed plan, including a written explanation as to why the proposed disturbance or removal is the minimum necessary to reasonably accomplish the permitted use.
  - c. A mitigation plan, consisting of a written and graphic description of the proposed measures to mitigate the removal or disturbance of Natural Features.

### **F. Review Criteria for Natural Features Impacts<sup>227</sup>**

When impacts to Natural Features are proposed, the proposed disturbance must be described in a Natural Features Statement of Impact which will be reviewed by the

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<sup>225</sup> Text below deleted because it is a reference to and redundant with code language.

<sup>226</sup> Text from Sec. 5:126.

<sup>227</sup> Text from Sec. 5:129.

approving body for the site plan, PUD site plan, or plat associated with the proposed disturbance. The approving body shall apply the following criteria to determine whether the proposed disturbance is limited to the minimum necessary to allow a reasonable use of the land:

1. The importance and overall value of a natural feature, both on the site and on a city-wide basis. In general, the importance of a natural feature increases with its rarity, size, age and condition.
2. The existence of overlapping Natural Features in 1 area. Overlapping Natural Features increase the importance and overall value for preservation of the area.
3. The impact of the proposed disturbance on the integrity of ecological systems or the continuity between Natural Features. Wherever possible, ecological systems and continuity between features should be preserved.
4. The amount of disturbance in relation to the scale of the proposed Development and to that permitted by other portions of this Chapter.<sup>228</sup>
5. The adequacy of the mitigation plan.

#### 5.28.5. Public Hearings<sup>229</sup>

##### A. General Requirements

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. Whenever a Wetland Use Permit is required by section 5.29.4 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 section 5.29.4.

##### B. Displayed in Public Location

Area plans, site plans, site plans for Planning Commission approval, PUD site plans, and preliminary plats under review shall be displayed in a publicly accessible location in City Hall for at least 1 week prior to the City Council and Planning Commission public hearings. Plans shall be current at the time of placement and subsequent revisions, if any, shall be available in the PDSU Office.<sup>230</sup>

##### C. Published Notice

Notice of all public hearings shall be published in a local daily newspaper of general circulation not less than 15 days prior to the public hearing.

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<sup>228</sup> The current reference is to Chapter 55.

<sup>229</sup> Text from Sec. 5:135. This section also incorporates state public notice requirements from MCL 125.3103 and 125.3202. Current local requirements that do not conflict with state requirements were retained. The intent is to create one set of consistent public notice requirements for all Planning Commission and City Council public hearings, regardless of the type of application. All other sections in the current code that contain public notice requirements have been replaced with a cross reference to this revised section.

<sup>230</sup> Revised per Ord. 10-20.

#### **D. Mailed Notice**

1. Prior to the Planning Commission or City Council's public hearing, the PDSU shall mail a notice letter to the person being assessed for the property that 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 PDSU that represent owners of property within 300 feet; and to occupants within 300 feet, regardless of whether the property or Structure is located in the zoning jurisdiction.
2. The notice shall do all of the following:
  - a. Describe the nature of the request;
  - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used;
  - c. State when and where the request will be considered;
  - d. Indicate when and where written comments will be received concerning the request; and
  - e. state the date, time, and place of the Planning Commission' or City Councils public hearing;
3. The notice shall be mailed not less than 15 days before the Planning Commission or City Council's public hearing. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
4. For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirements of this section that street addresses be listed do not apply to that group of adjacent properties.
5. A second public hearing will be held in the same manner if either:
  - a. Final action by the Planning Commission or City Council is delayed more than 6 months after the initial public hearing; or
  - b. In the judgment of PDSU, the project plan has been substantially revised.

#### **E. Posted Notice**

A notice shall be posted by the PDSU on the affected property prior to the Planning Commission or City Council's public hearing stating that Planning Commission or City Council action, as applicable, 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.

### 5.28.6. Certificates of Occupancy

1. No Building, Structure or zoning lot for which a zoning compliance permit has been issued shall be used or occupied until the Building Official has, after final inspection, issued a certificate of occupancy indicating compliance has been made with all the provisions of this Chapter. However, the issuance of a certificate of occupancy shall not be construed as waiving any provision of this Chapter.<sup>231</sup>
2. A certificate of occupancy or final permit approval shall not be issued for a Building or site improvement identified in the approved site plan, plat or land division, unless all required site improvements in the applicable Phase, including those associated with the protection and mitigation of Natural Features, have been installed and Final Acceptance obtained or the installation of the required site improvements has been secured as required by this Code. The property owner must provide a 1-year Warranty after Final Acceptance, backed by Security, for all public and private roads, sanitary sewers, water mains and storm water conveyances and management systems. The Security for the 1-year Warranty shall be \$5,000.00 or 1 percent of the cost of construction of the facility warranted, whichever is greater. Unless designated as optional, all improvements shown on the approved site plan, PUD site plan, final preliminary plat or land division, or described in an executed Development agreement, or included in an approved PUD Development Program or Supplemental Regulations, shall be considered required site improvements.<sup>232</sup>
3. No certificate of occupancy shall be issued unless the provisions of section 5.20 have been met or a performance bond or other Security has been posted as required by section 5.28.7.<sup>233</sup>

### 5.28.7. Security for Completion of Improvements

- A. For a single-Structure Development, where it would be impractical to delay occupancy prior to the completion of certain site improvements due to cold weather or lack of availability of paving or plant materials, a temporary certificate of occupancy for a Building may be issued upon the approval of the PDSU Manager for a period of up to 6 months provided (1) all public utilities necessary to serve the Building have been constructed, passed initial acceptance testing and been maintained in a clean, operable condition and (2) Security is presented to the City for the remaining site improvements. Issuance of a temporary certificate of occupancy does not alter, reduce or change any other requirement necessary for a certificate of occupancy.
- B. For a multiple-Structure Development or Phased Development where it would be impractical to delay occupancy for any building prior to completion of all public and private improvements, a certificate of occupancy may be issued provided all the conditions in the following subparagraphs are met.

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<sup>231</sup> Text from Sec. 5:94.

<sup>232</sup> Text from Sec. 5:132(4) *Subdivision*

<sup>233</sup> Relocated from Enforcement provisions in Art. VII of the UDC.

1. All proposed roads within the applicable Phase must be complete, including curb and gutter and associated sidewalks. Where it would be impractical to delay occupancy due to cold weather or lack of availability of paving materials, the road surface or associated sidewalk may be incomplete provided that the road meets fire services unit requirements and Security is posted for these items. For purposes of this section, road shall mean public road, private street or access driveway.
  2. All other private site improvements within the applicable Phase, including but not limited to, lead walks, pedestrian paths, Parking Spaces or lots, storm water conveyance and management systems and landscaping directly adjacent to or for the direct benefit of any Building for which a certificate of occupancy is requested must be installed. Where it would be impractical to delay occupancy prior to the completion of certain private site improvements due to cold weather or lack of availability of paving or plant materials, Security may be posted for these items.
  3. All public utilities that serve the applicable Phase, including sanitary, storm and water conveyance and connection systems, are constructed, have passed initial acceptance testing and are in a clean, operable condition.
  4. All easements for public facilities or improvements that serve or benefit the Phase must have been granted, accepted and recorded.
  5. Security has been posted to allow use of all public facilities prior to Final Acceptance . The purpose of this Security is to ensure that any repairs and/or maintenance required to restore public water mains, sanitary and storm systems within, servicing or benefitting the site to an acceptable final condition can be accomplished. This Security must be maintained in full until Final Acceptance .
  6. The owner of the property or legally appointed designee has signed an agreement acceptable to the City Attorney to make all repairs to all public facilities within the site regardless of source of damage.
  7. All applicable provisions or obligations of the owner in a site Development agreement have been completed and fulfilled.
  8. Conditions required to obtain a certificate of occupancy for the last Building within a multi-Structure Development shall be those required for a single Structure Development.
- C. Where Security is posted to secure any obligation of the owner in this Chapter (other than the posting of a cash bond related to Grading in section 5.29.3), the following requirements apply:
1. The amount of Security required shall be the estimated costs to the City, as determined by the PDSU Manager, to perform the activity to be secured plus 50% to cover contingencies, plus a nonrefundable administrative fee for accepting, holding, and releasing the Security. Security posted for any activity may be applied to any other activity for which Security is required.<sup>234</sup>

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<sup>234</sup> Fee provisions were not carried over since they would be repetitive with other general standards in this section 5:27.3.

2. The Security shall be accompanied by an agreement acceptable to the City Attorney from the property owner or owner's designee insuring that the secured activities will be completed or satisfactorily performed by the deadline established by the PDSU Manager. It shall authorize the City or its designee to go onto the property without any further notice or authorization from the owner and complete the construction, perform repairs or install uncompleted site improvements. It shall include an agreement by the property owner that if the secured activities are performed by the City and the costs to the City exceed the amount of the Security available to pay the costs, then the property owner agrees to pay the excess costs. The agreement shall provide an address to which the City may send the property owner via first class mail notices that may be required or appropriate under this ordinance. In the case of repairs, if the repairs are not made after reasonable notice to the owner, or if an emergency condition exists that requires rapid response without notice to the owner, the City may proceed to make or have made the necessary repairs and invoice the owner for all reasonable costs associated with the repairs. If the owner does not pay the amount owed within 20 days of the City sending the invoice, the City shall draw upon the posted Security for the full amount of the invoice plus any other outstanding costs for which the owner is obligated to the City.
3. It shall be the responsibility of the owner to notify in writing the appropriate City departments when secured work or improvements have been completed and to request a compliance inspection for the Phase or site. The City shall conduct the compliance inspection within 30 days of the request unless there is evidence that the work or improvements were incomplete at the time of the request. The property owner may request, in writing, return of Security only after all the obligations, improvements and facilities for which the property owner provided Security have been completed or fulfilled. Requests for return of the Security made prior to completion of the obligation for which the Security was posted are void and of no effect. Portions of the Security amount, with the exception of the public facility maintenance/repair Security, may be returned as work progresses, at reasonable intervals, provided that at all times the amount on deposit equals the estimated cost of the work to be completed plus 50%. Upon receipt of a written request and confirmation of Final Acceptance of a Phase or site, the City will endeavor to return the remaining balance of the posted Security within 30 days of the date of Final Acceptance .
4. Interest on the Security shall be computed for each quarter where the lowest principal balance during the quarter exceeds \$2,000. Interest shall be computed as simple interest at a rate 0.5% lower than the average earned by the City during the prior quarter on securities held pursuant to this section 5.28.7. It shall be paid at the time the final principal balance is returned to the property owner. Any Security remaining with the City 18 months after the date set for completion of the work, as specified in the letter required by this section 5.28.7, for which there is not a written request to return the balance, shall be forfeited to the City for the City's unrestricted use.

D. If improvements have not been completed by the stated date, the PDSU Manager may, after notice to the property owner or owner's designee, revoke the certificate of occupancy and/or transfer the Security to the City general fund. Thereafter the City shall be authorized to go onto the property and complete the construction or installation of uncompleted site improvements in accordance with the approved site plan, plat, land division, or Development agreement with the funds available. If the cost to the City for completing the site improvements exceeds the amount of the Security, the City shall make demand upon all responsible parties for payment and, if the balance is not promptly paid, may proceed with collection.

#### 5.28.8. Development Agreements<sup>235</sup>

Approval of a final preliminary plat or site condominium land division shall be conditioned upon the execution of a Development agreement that secures the completion of all public and private improvements shown on the approved plat or land division. Where the timing or nature of improvements require such Security, the approval of a site plan or a PUD site plan may be conditioned upon the execution of a Development agreement. Where a PUD zoning district allows residential uses and proposes Development of at least 20 percent of the Dwelling Units as Affordable Housing for Lower Income Households, approval of a PUD site plan shall be conditioned upon the execution of a Development agreement that assures the affordability and availability of such housing.

#### 5.28.9. Administrative Amendments

##### A. Approved Site Plans<sup>236</sup>

A minor change to an approved site plan may be approved by PDSU Manager 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 PDSU Manager shall provide regular reports to the Planning Commission of administrative amendments acted upon by the PDSU. A minor change is one or more of the following:

1. Change to or addition of Development phasing lines.
2. Change in Building Height that does not create new Floor area.
3. Relocation of sidewalks.
4. Change of location or type of landscape or screening materials. Where more landscaping area or materials are shown than required by 5.20, these elements may be reduced by no more than 20% of the additional amount originally approved.
5. Relocation of refuse collection stations.
6. Internal rearrangement of parking lot.
7. Decrease in Building size.

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<sup>235</sup> Text from Sec. 5:133 *Subdivision*, with text reordered.

<sup>236</sup> Text from Sec. 5:122(5) *Site Plans*.

8. Moving a Building no more than 10 feet or 5% of the distance to the closest property line, whichever is smaller.
9. An increase in Building size that does not exceed 10,000 square feet or 10% of the Floor area, whichever is smaller.
10. Extension of site plan approval for periods up to 2 years if the plan is in compliance with current laws and regulations.
11. Relocation or addition of no more than 50% of the approved storm water detention capacity.
12. 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.
13. 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.
14. 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.
15. 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% of the lot area, and 14 feet in height.
16. Addition of carports over existing legal Parking Spaces.
17. 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.
18. Canopy Structures over Vehicular Use Areas.

#### **B. Approved PUD Site Plans<sup>237</sup>**

A minor change to an approved PUD site plan may be approved as provided in section 5.28.9.A, 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:

1. 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.

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<sup>237</sup> Text from Sec. 5:123(6) *Site Plans*.



2. Any decrease in Building size or changes in bedroom counts per Dwelling Unit shall not reduce the size or number of affordable housing units approved as part of the PUD site plan.

### C. Approved Planned Project<sup>238</sup>

1. A planned project may be amended as provided in this section 5.28.9.C as long as those design elements that were identified in the Development program as justification for approval of the planned project<sup>239</sup> are not reduced or eliminated.
2. Minor changes to a previously approved planned project may be approved as provided for administrative amendments to site plans (section 5.28.9.A, except that:
  - a. The proposed changes shall not alter the basic design or any specific conditions or expressly prohibited amendments of the plan as approved by City Council; and
  - b. The recorded conservation easement or binding legal instrument providing for Permanent Open Space preservation shall not be extinguished. The PDSU Manager shall record all such amendments on the original planned project site plan.
  - c. Relocation of landscaping or changes in species of landscape materials shall not reduce minimum landscape requirements or violate prohibited activities under a recorded conservation easement or binding legal instrument for Permanent Open Space preservation.
  - d. Any recreational or maintenance facilities shall not violate the activities prohibited under a recorded conservation easement or binding legal instrument for Permanent Open Space preservation.
3. Planning Commission review and City Council approval is required to divide a planned project parcel that is not already regulated by the Subdivision Control Act of 1967 as amended. The City Council shall approve the division only if it determines that the resulting parcel(s) will comply with all applicable laws and will not affect the objectives of the planned project as originally approved. If Permanent Open Space preservation was provided by the planned project approval, the following shall also apply:
  - a. The same or a substantially similar request shall not have been presented to the City Council previously and expressly denied and rejected after public hearing.
  - b. The option of utilizing a conservation easement, plat dedication or other binding instrument for Permanent Open Space preservation of 20% or greater of the total area shall be exercised no more than one time on a parcel of land.

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<sup>238</sup> Text from Sec. 5:72 *Planned Projects*.

<sup>239</sup> The current text reads "justification for the approval of modifications of the zoning chapter".

**D. Approved Grading Plans<sup>240</sup>**

All modifications of the approved Grading plans shall be submitted to and approved by the PDSU Manager. All necessary reports shall be submitted with any proposal to modify the approved Grading plan. No Grading work in connection with any proposed modification shall be permitted without the approval of the PDSU Manager.

**5.28.10. Appeals<sup>241</sup>****A. General Appeals Procedure<sup>242</sup>**

1. Appeals shall be commenced by a person filing a notice of appeal with the body or official from whom the appeal is taken and with the ZBA on a form supplied by the PDSU Manager. The notice of appeal shall specify the particular grounds upon which the appeal is based, and shall be signed by the appellant.<sup>243</sup>
2. Appeals shall be filed within 60 days of the date of the decision in question.
3. The body or official from whom the appeal is taken shall immediately transmit to the ZBA all of the papers constituting the record upon which the action appealed from was taken.
4. The ZBA shall hold a public hearing on all applications before taking action on the application. Notice of the public hearing shall be made as set forth in section 5.28.5.D.
5. Any person shall be accorded the right to appear in person or be represented by a duly authorized agent.
6. The ZBA shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:
  - a. The relevant administrative records and the administrative orders issued on those records relating to the appeal.
  - b. The notice of appeal.
  - c. Those documents, exhibits, photographs, or written records as may be submitted to the Board for its consideration.
  - d. Minutes of meetings.
7. The ZBA may reverse or affirm in whole or in part, or modify the order, requirement, decision or determination and may direct the issuance of a permit.
8. The requisite written findings of fact, the conditions attached and the decisions and orders by the ZBA in disposing of the appeal shall be entered into the official record after they have been signed by the Chair of the ZBA and after written notice of the disposition of the appeal has been served, either in person or by mail, upon the parties to the appeal, the PDSU

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<sup>240</sup> Text from Sec. 5:665 *Grading*.

<sup>241</sup> All references to a "sign appeal procedure" have been deleted from the code because the BZA will hear all sign appeals.

<sup>242</sup> Revised to include additional requirements of MCL 125.3604.

<sup>243</sup> Current text addressing variance topics moved to Variance section.

Manager, and the City Clerk. The Chair shall, within 10 days after the date the ZBA has reached its final decision on an appeal, sign the necessary orders to effectuate the decision of the ZBA.

### **B. Land Division Appeal Procedure<sup>244</sup>**

In the case of an appeal of a decision of the PDSU Manager regarding an application for land division:

1. The appeal shall be decided by the Planning Commission.
2. The appeal must be filed within 30 days after the decision of the PDSU Manager or the appeal shall not be accepted by the City.
3. A written notice shall be sent to the applicant and to the property owners and residents within 300 feet of the boundary of the property not less than 10 days before the Planning Commission hearing indicating the time, date and location of the hearing.
4. A notice of the hearing shall be provided in accordance with section 5.28.5.C.
5. The Planning Commission shall hold its hearing at its first regular meeting for which these notice requirements may be met.
6. The decision of the Planning Commission shall not create parcels that would not be permitted under the provisions of the zoning district in which the parcel is located and shall not create parcels that would not be permitted under the State Land Division Act.<sup>245</sup>

## **5.29. Specific Procedures**

The provisions of this section 5.29 apply to specific types of applications under this Chapter and supplement those general procedures in section 5.28. In case of a conflict between the provisions of this section 5.29 and those of section 5.28, the provisions of this section 5.29 shall take precedence.

### **5.29.1. Zoning Compliance Permit<sup>246</sup>**

#### **A. Buildings or Structures**

It shall be unlawful to begin the excavation for the construction, moving, alteration, or repair (except ordinary repairs as defined in Chapter 100 of this Code) of any Building or other Structure, including an accessory Structure, costing more than \$100.00 or exceeding 100 square feet in area until the Planning and Development Services Manager has issued a zoning compliance permit for that work.

#### **B. Land Uses**

It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any Building, or to extend any use on any lot on which there is

<sup>244</sup> Text is from Sec. 5:125(2)(e).

<sup>245</sup> Materials on appeal fees have not been carried over, since they are repetitive of materials in section 5:27.3.

<sup>246</sup> Text from Sec. 5:92. Text on fence permits starting at current Sec. 5:433 has not been carried over, since fence permits are already identified as a type of zoning compliance permit and the fence permit provisions on application materials and fees are already covered by new 5:27.2 and 5:27.3.

a non-conforming use, until the PDSU Manager has issued for a zoning compliance permit for the intended use.

### **C. Fences and Dumpsters**

Zoning compliance permits shall also be required for the construction of Fences consistent with section 5.26 and for the placement of locations for dumpsters used for commercial recyclables and related screening consistent with section 5.20.6 and Chapter 26, section 2:5 (4).<sup>247</sup>

### **D. Certification**

Each zoning compliance permit shall include a Certification of the PDSU Manager's determination that plans, specifications, and the intended use for such Structure conform to the provisions of this Chapter.

### **E. When Required**

If a building permit is required, application for a zoning compliance permit may be made coincidentally with the application for a building permit. In all other cases, application for a zoning compliance permit may be made prior to that date when a new or enlarged use of a Building Premises or part of the Premises is intended to begin. If application for zoning compliance permit is made prior to the application for a building permit, a zoning compliance permit may be considered to be only an unofficial advisory opinion of the PDSU Manager that does not carry any guarantee or obligation on the part of the City. A record of all such applications shall be kept on file in the PDSU.

### **F. Period of Validity**

Any zoning compliance permit issued under the provisions of this Chapter shall be valid only for a period of 6 months following the date of the issuance.

### **G. Applications Requiring ZBA Action**

When the PDSU Manager receives an application for a zoning compliance permit as part of an application that requires Zoning Board of Appeals approval, the application and all supporting information shall be conveyed by the PDSU Manager to the Zoning Board of Appeals.

### **H. Criteria for Approval**

The City shall issue a zoning compliance permit if it determines that the application complies with this Chapter and with all other applicable laws and regulations of the City.<sup>248</sup>

## **5.29.2. Sign Permits**

Signs regulated by sections 5.24.4 Exterior Business Signs, 5.24.7 or 5.24.11 Off-premises Signs, shall be erected, altered, relocated or maintained unless a permit for it is obtained from the City in accordance with the following regulations:

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<sup>247</sup> From Chapter 26:5(4).

<sup>248</sup> Subsection F is new text.

**A. Application** <sup>249</sup>

Application for a Sign permit shall be made upon forms provided for by the City and shall contain or have attached the following information:

1. Name, address and telephone number of the applicant.
2. Location of Building, Structure or lot to which the Sign is to be attached or erected.
3. Position of the Sign in relation to nearby Buildings, Structures and property lines. Distance from a Building to a Sign shall be measured from the nearest wall of the Building, or in the case of a Gasoline Service Station, the nearest gasoline pump, to the furthest portion of the Sign or its supporting structure.<sup>250</sup>
4. Two copies of a drawing or sketch of the Sign, including dimensions and total number of Message Units.<sup>251</sup>
5. Name and address of the person, firm, corporation or association erecting the Structure.
6. Insurance policy or bond as required by this Chapter.

**B. <sup>252</sup>Building Permit Requirement**

Signs requiring new footing(s), framework, or attachment(s) to a Building or Structure shall be required to submit a building permit application, unless determined unnecessary by the Building Official. The application shall include drawings, stress sheets and calculations showing the structure as designed for dead load and wind pressure in accordance with Chapter 100 of this Code and shall bear the certificate or seal of a registered architect or engineer. The materials, design and maintenance standards of Chapter 100 shall be met whether or not the sign is visible from public property. Nothing contained in Chapter 100 shall be construed to permit any sign prohibited by this Chapter. <sup>253</sup>

**C. Electrical Permit Requirement**

All new electric signs or existing electric signs requiring an electrical reconnection shall be required to submit an electrical permit application. All electric signs and outside lighting shall be installed in accordance with the Electrical Code adopted by the City as referenced in Chapter 100 of this Code. <sup>254</sup>

**D. Exceptions**

No permit shall be required for ordinary servicing, repainting of existing Sign message or cleaning of a Sign. No permit is required for change of message of Sign designed for periodic message change without change of Structure, including a bulletin board or Off-Premise Sign, but not including a Sign to which a new permanent face may be attached.

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<sup>249</sup> Text on application materials was not carried over, since that topic is addressed in 5:27.2.

<sup>250</sup> Added for clarity.

<sup>251</sup> Revised to be specific to sign permits. Requirements for building permits and electrical permits are now addressed separately.

<sup>252</sup> Deleted because is more appropriately addressed through the building permit application.

<sup>253</sup> Added for clarity and to reflect current practice.

<sup>254</sup> Added for clarity and to reflect current practice.

### E. Display of Street Address

No permit shall be issued pursuant to section 5.24.4 or 5.24.5 unless the applicant displays on the Premises the street address number in digits having a height of at least 3 inches that also meet the requirements of Chapter 2 of this Code.

### F. Criteria for Approval

The City shall issue a Sign permit if it determines that the application complies with this Chapter and with all other applicable laws and regulations of the City.<sup>255</sup>

### 5.29.3. Grading Permit<sup>256</sup>

The City of Ann Arbor has been granted authority, by the State of Michigan, as a Municipal Enforcement Agency to issue soil erosion and sedimentation control permits under Part 91 of 1994 PA 451 (Michigan Compiled Laws) as amended.<sup>257</sup>

#### A. Applicability

1. Except as exempted by this Chapter, no person shall do any Clearing or land or trees that results in any disturbance of Natural Features or in a cumulative total loss of more than 10,000 square feet of Canopy per calendar year, or any Grading, Stripping, excavating or filling of land or trees, unless the person has a valid Grading Permit issued by the PDSU Manager.
  - a. Permits issued pursuant to this Chapter do not relieve the owner of responsibility for securing required permits for work to be done that is regulated by any other applicable code, ordinance, or agency.
  - b. Any permit issued shall become invalid if (i) the authorized work is not commenced within 6 months of the date issued, or (ii) the authorized work is suspended or abandoned for a period of 6 months after termination of substantial operations as determined by the PDSU Manager.
2. A Grading Permit shall not be issued prior to any required site plan, final preliminary plat, or PUD site plan approval.
3. A Grading Permit shall be applied for and issued prior to a building permit.
4. All public and private Development shall comply with this Chapter, except as exempted by the permit exceptions section of this Chapter.
5. A Grading Permit is required prior to an Earth Change except as provided elsewhere section in 5.29.3.

#### B. Exceptions

Permit exceptions shall not be construed as exemptions from enforcement procedures if excepted activities cause or result in a violation of this Chapter. Notwithstanding any other provisions of this Chapter, a Grading Permit will not be required under the following conditions if there will be no disturbance to Natural Features:

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<sup>255</sup> Subsection D is new text.

<sup>256</sup> Text starts at 5:655.

<sup>257</sup> This text is currently found in the definition of a grading permit.

1. An Earth Change of a minor nature, such as an emergency utility repair, that is stabilized within 24 hours of the initial earth disturbance, and that will not contribute Sediment to lakes, Watercourses, or Storm Water Management Systems.
2. Earth Change activities that disturb less than 225 square feet in an isolated, self-contained area provided that the PDSU Manager determines that by reason of such isolation and self-containment, the Earth Change will not contribute Sediment to lakes, Watercourses, or Storm Water Management Systems, and no danger or nuisance to private or public property will result from associated soil Erosion and Sediment. To assist the PDSU Manager in making this determination, it may be necessary for plans and/or a signed affidavit from the land owner to be submitted.
3. City public projects or installations that involve less than 1 acre of earth disturbance and are located more than 500 feet from the water's edge of a lake, Wetland or Watercourse, as determined by the PDSU Manager.
  - a. All construction plans for City public projects shall include the information required by section 5.29.3.C, regardless of the necessity for a Grading permit.
  - b. City public projects are subject to the standards, responsibilities, and enforcement listed in this Chapter, regardless of the necessity for a Grading permit.

#### **C. Grading Permit Application**

An application shall be required for each Grading Permit and shall be submitted to the PDSU Manager by the landowner or designated agent. Plans shall be submitted to the PDSU Manager with each application for a Grading Permit in accordance with the minimum design standards specified in this Chapter. The soil erosion and sedimentation control plans shall be designed to effectively reduce Accelerated Soil Erosion and sedimentation. The plans shall be prepared, signed and sealed by a Professional Engineer or by an architect. The PDSU Manager may waive the preparation or signature and seal by the Professional Engineer or architect when the work entails little Hazard to the adjacent property, does not disturb any Natural Features, does not include the construction of a Fill upon which a Structure may be erected, or is for construction of or addition to one single or Two-Family Dwelling or accessory Structure on a parcel zoned solely for residential purposes.

#### **D. Application Data Required**

The plans and specifications accompanying the site plan, final preliminary plat, PUD site plan, or Grading Permit application shall contain the following data:

1. Name, address and telephone number of the owner, developer, and applicant.
2. A vicinity sketch at the scale of not more than 1 inch = 200 feet, or as otherwise determined by the PDSU Manager, indicating the site location as well as the adjacent properties within 500 feet of the site boundaries, and showing relationship to any Watercourse.
3. A legal description or boundary line survey of the site on which the work is to be performed.

4. A soil investigation report, survey or profile that shall include but not be limited to data regarding the nature, soil type, distribution, credibility, and supporting ability of existing soils or rock on the site in accordance with United States Department of Agriculture soil survey standards.
5. A plan of the site at a maximum scale of 1 inch = 50 feet or as otherwise determined by the PDSU Manager, showing:
  - a. Existing and proposed topography at a maximum of 2 foot contour intervals, elevations or similar slope descriptions, extending at least 50 feet beyond the site boundary lines;
  - b. Location and description of any Structure or natural feature on the site, and on the land adjacent to the site, extending at least 50 feet beyond the site boundary lines; and
  - c. Location and description of any proposed Structures or Development on the site, including the physical limits of each proposed Earth Change and all proposed temporary and Permanent Soil Erosion and Sedimentation Control Measures.
6. Plans, section and construction-quality details of all soil Erosion and sedimentation control measures, existing and proposed on-site drainage and dewatering facilities, retaining walls, cribbing, planting, anti-erosion devices or other protective devices to be constructed in connection with or as part of the proposed work.
7. The estimated total cost of the required controls during construction, including dust emission control.
8. The estimated total cost of protecting all exposed soil surfaces from Erosion should construction discontinue.
9. An estimate of the quantity of excavation and Fill involved.
10. The amount of impervious area existing, proposed, and reconfigured to accommodate new improvements.
11. If a Storm Water Management System is required pursuant to section 5.22, computations and design of the Storm Water Management Systems, including, but not limited to:
  - a. Calculations used to derive the runoff coefficient(s);
  - b. A map showing the drainage area and land tributary to the site and estimated runoff of the area served by any drain;
  - c. Required storage volume calculations, including first flush, bankfull, and 100-year storm events;
  - d. Calculations for the provided/proposed storage facility;
  - e. Required and proposed release rate calculations;
  - f. A plan for the continued maintenance of the permanent Storm Water Management System;
  - g. Any other pertinent calculations, as determined necessary by the public services area administrator; and





### **E. Review Resources**

The soil Erosion and sedimentation control plan shall be reviewed and approved by the PDSU Manager. The most recent versions of the following applicable resources may also be utilized by the PDSU Manager as the standards and specifications for this Chapter:

1. The Low Impact Development Manual for Michigan;
2. Michigan Department of Environmental Quality “Guidebook of Best Management Practices for Michigan Watersheds”;
3. The City Public Services Area Standard Specifications Manual;
4. The Standards and Specifications of the Natural Resources and Conservation Service;
5. The Standard Specifications for Construction of the Michigan Department of Transportation;
6. The Rules of the Washtenaw County Water Resources Commissioner; and
7. The Oakland County Soil Erosion Control Manual dated January 1, 1990.

### **F. Criteria for Approval**

The soil Erosion and sedimentation controls and Storm Water Management Systems shall be designed to the criteria in this Chapter to the satisfaction of the PDSU Manager. Grading permits shall be issued if the PDSU Manager determines that all of the following standards are met:

1. The proposed Grading will not cause Hazard to public safety and/or welfare; and
2. The proposed work will not damage adjacent public or private property, or alter any existing drainage in such a manner as to damage adjacent or off-site property, or result in deposition of Debris or Sediment off-site, or result in deposition into any wetland, Watercourse, Storm Water Management System, or Public Right-of-Way; and
3. The area for which Grading is proposed is not subject to Erosion, settlement, slope instability or any other Hazard that cannot be protected against during the permitted Grading activities; and
4. The land area for which the Clearing and/or Grading is proposed does not lie within a designated 100-year Floodplain or unmapped flood prone area of any lake, pond, or Watercourse unless the proposed Clearing and/or Grading is consistent with the current City Floodplain Management Resolution or any subsequently adopted Floodplain Management Ordinance and is determined to have no detrimental influence upon the overall function of the watershed; and<sup>258</sup>
5. Disturbance to any natural feature is consistent with any approved site plan, final preliminary plat, or PUD site plan; and
6. A soil Erosion and sedimentation control plan is provided that meets the provisions of this Chapter.

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<sup>258</sup> A repetitive reference to the public welfare was deleted from this subsection.

### **G. Bond Requirement**

A Grading Permit shall not be issued unless the applicant shall first post with the City a cash bond, except for the construction of or addition to one single or Two-Family Dwelling or accessory structure on a parcel zoned solely for residential purpose. The cash bond shall be posted in accordance with the following provisions:

1. The cash bond shall be in the amount of the estimated total cost of (a) the work to protect all exposed soil surfaces from Erosion should Development discontinue and (b) implementing and maintaining all other soil Erosion and sedimentation controls authorized by the permit. The PDSU Manager may waive all or part of the amount to the extent that the Official determines that the Hazard or danger created by the work does not justify the full amount, or to the extent that other provisions for securing the improvements are made.
2. The total cost shall be estimated by the PDSU Manager. The refund of cash bonds shall be made to the permittee on the basis of work completed, as determined by the PDSU Manager.
3. Every cash bond<sup>259</sup> shall be made on the conditions that the permittee shall comply with all of the provisions of this Chapter, with all of the terms and conditions of the Grading Permit to the satisfaction of the PDSU Manager, and shall complete all of the work contemplated under the Grading Permit within the time limit specified in the Grading permit.

### **H. Extension of Time**

If the permittee is unable to complete the work within the specified time, the permittee may, prior to the expiration of the permit, present in writing to the PDSU Manager a request for an extension of time, setting forth the reasons for the requested extension. If, in the opinion of the PDSU Manager, such an extension is warranted, the official may grant additional time for the completion of the work.

### **I. Time for Review and Decision**

The PDSU Manager shall approve, disapprove or require modification of an application for a Grading Permit within 30 calendar days following receipt of the application.

## **5.29.4. Wetlands Use Permit<sup>260</sup>**

### **A. Application for Use Permit**

Applications for a wetlands use permit shall be filed with the PDSU <sup>261</sup>as prescribed below, and shall include the following:

1. Ten copies of the State-approved Application for Permit and Application for Local Wetland Permit, with each section thoroughly completed.
2. Ten copies of drawings that contain, at a minimum, the information provided for on the Application for Permit.

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<sup>259</sup> Reference to cash deposit changed to cash bond for consistency.

<sup>260</sup> Text from current Sec. 5:206 and following sections.

<sup>261</sup> Reference to CSA changed to PDSU for consistency and to match current practice.

3. A signed letter from the applicant that explains why the project meets the use permit standards and criteria contained in section 5.29.4.F.
4. Ten copies of the mitigation plan shall be submitted, if mitigation is proposed. In order to adequately review a proposed mitigation plan, the following information shall<sup>262</sup> be provided to the PDSU:
  - a. A brief overview of the plan including the short-range and long-range objectives for vegetation, hydrology, Grading, and monitoring.
  - b. A schedule of all mitigation activities, including coordination with other local and state agencies, if applicable.
  - c. A planting plan and plant list for the area(s) to be established. The use of native plants characteristic of local conditions is encouraged. Species should be selected based on the need for wildlife, restoration, landscaping, and recovery. The public services area shall, in consultation with knowledgeable persons, maintain and update a list of botanical species which are considered invasive. Mitigation activities shall be performed without the use of Invasive Species.
  - d. A Grading and soil Erosion control plan including existing and proposed conditions.
  - e. A description of all soils and materials to be used including their approximate volumes and origin.
  - f. Hydro-geological information sufficient to determine the site's suitability for the mitigation.
  - g. Construction detail drawings for planting, soil Erosion control, Stabilization, water conveyance, and all other items necessary to facilitate the review.
5. Ten copies of a monitoring plan (text or drawings or both) shall be submitted, if mitigation is proposed. In order to adequately review a monitoring plan, the following information shall<sup>263</sup> be provided to the PDSU:
  - a. A schedule and list of activities to be contracted and conducted related to the site's hydrology, including sub-surface and surface water for a period of at least 5 years. A report and recommendation on the hydrologic conditions of the site should be submitted to the public services area administrator annually.
  - b. A schedule and list of activities to be contracted and conducted related to the site's plant establishment and control of invasive exotic species for a period of at least 5 years. A report and recommendation on the plant establishment of the site should be submitted to the public services area administrator annually.

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<sup>262</sup> Text revised to indicate this is mandatory, to match current practice.

<sup>263</sup> Text revised to indicate this is mandatory, to match current practice.

- c. To assure that the objectives established in the mitigation plan are successful, the monitoring plan should indicate the mechanisms necessary to execute the recommendations from the annual reports and provide for additional monitoring after the 5-year period.

#### **B. PDSU and Public Service Area Review Procedures**

1. The City shall review the application pursuant to this Chapter and shall modify, approve (with or without conditions), or deny the application within 90 days after receipt. An application for a permit shall not be deemed as received or filed until the community services area has received all information requested on the application form, the application fee, and other information required by this Chapter and necessary to reach a decision. The period for modifying, approving, or denying an application begins as soon as all such information and the application fee are received by the City. If the city does not modify, approve, or deny the permit application within 90 days, the permit application shall be considered approved.
2. Failure to supply complete information with a permit application may be reason for denial of a permit. The denial of a permit shall be accompanied with a written reason for denial.
3. Upon receipt of an application, the CSA shall forward the application and supporting documentation and plans to the following entities for review and comment:
  - a. The Michigan Department of Environmental Quality (MDEQ); and
  - b. The City Public Services Area (PSA).
4. The PSA Administrator shall review the wetlands use permit application to verify that all required information has been provided. At the request of the applicant or the City, an administrative meeting may be held to review the proposed activity in light of the purposes of this Chapter.
5. Upon receipt of a complete application, the PSA Administrator may conduct or authorize the completion of a field investigation to review and verify the accuracy of information received. The receipt of a wetlands use permit application shall comprise the property owner's permission to complete an on-site investigation.
6. If an MDEQ permit is required, the PSA Administrator shall coordinate field investigations with state agency personnel to the maximum feasible extent.
7. Plans for Wetland mitigation shall be reviewed only after the requirements of section 5.29.4.G have been met.
8. It shall be the responsibility of the PSA Administrator to select a qualified Wetlands consultant or retain qualified staff to conduct Wetland field investigations and complete assessments on behalf of the City, if the PSA administrator determines its necessity.
9. When a Wetlands use permit application is not related to a Development or activity necessitating review and approval of a site plan or plat by the Planning Commission or City Council, the CSA Administrator shall be responsible for granting or denying the application.

10. Prior to the decision of the Community Services Area Administrator, notice of the use permit application shall be sent by first-class mail to property owners within 300 feet of the boundary of the property upon which the activity is proposed at least 10 days before the CSA Administrator makes a decision on the application, which notice shall indicate where and when the wetlands use permit application may be examined and that the property owners receiving notice may file comments with the CSA Administrator.

### **C. Planning Commission Review**

After the CSA and PSA have completed their review of a wetlands use permit application, the application shall be referred to the Planning Commission if it relates to a proposed Development or activity that requires review by the Commission pursuant to another provision of this Chapter. A public hearing on the wetlands use permit application shall be held by the Planning Commission at the same meeting at which it considers the related site plan or preliminary plat. The public hearing on the Wetland Use Permit application shall be held concurrently with the public hearing on the site plan or plat. Public hearing requirements shall be the same for the Wetland application as for the related site plan or preliminary plat. After conducting a public hearing the Planning Commission shall:

1. In the case of a site plan, an amendment to an approved site plan, or a preliminary plat, make a recommendation to the City Council with regard to whether the wetlands use permit application shall be issued and in connection with a favorable recommendation may suggest conditions; or
2. In the case of a site plan for Planning Commission approval, modify, approve (with or without conditions) or deny the wetlands use permit application.

### **D. City Council Review**

Upon receipt of the Planning Commission recommendation on a wetlands use permit application and the related site plan or preliminary plat that relates to a proposed Development or activity that requires City Council approval, the City Council shall hold a public hearing with regard to the wetlands use permit application at the same meeting at which it considers the related site plan or preliminary plat. The public hearing on the Wetland Use Permit application shall be held concurrently with the public hearing required by another chapter for a site plan or plat. After conducting the public hearing, the City Council shall modify, approve (with or without conditions), or deny the wetlands use permit application.

### **E. Wetlands Use Permit Conditions**

1. A wetlands use permit shall allow Development of land consistent with the permit and the plans, regulations, laws, and ordinances in effect at the time the use permit is approved.
2. A wetlands use permit issued under this section 5.29.4 does relieve the applicant from the duty to obtain any required approvals from other local, state, and federal government agencies.
3. A wetlands use permit shall become invalid if the authorized work is not commenced within 6 months of the date issued, or is suspended or abandoned

for a period of 6 months after termination of substantial operations as determined by the CSA Administrator.

4. Whenever the City approves the issuance of a wetlands use permit, it may:
  - a. Issue permits on a City-wide basis for a category of activities if the City determines that the activities are similar in nature, will cause only minimal environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment.
  - b. Impose conditions on a wetlands use permit for a use or Development if the conditions are designed to remove an impairment to benefits gained from wetlands, or if they are designed to mitigate the impact of a discharge of Fill material, or if they will otherwise improve water quality.
  - c. Establish a reasonable time when the construction, Development, or use is to be completed or terminated.

#### **F. Wetlands Use Permit Criteria**

In making a determination whether to approve a wetlands use permit application, the Planning Commission, the City Council, or the CSA Administrator<sup>264</sup> shall consider the following standards and criteria:

1. Except as provided in section 5.29.4.F.4, a permit for an activity listed in section 5.23.4.C shall not be approved unless the City determines that the issuance of a wetlands use permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful.
2. In determining whether the activity is in the public interest, the benefit that reasonably may be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity. The decision shall reflect local, state, and national concern for protection of natural resources from pollution, impairment, and destruction. The following general criteria shall be considered:
  - a. The relative extent of the public and private need for the proposed activity;
  - b. The availability of feasible and prudent methods and alternative locations and methods to accomplish the expected benefits from the activity;
  - c. The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited, including the benefits the protected Wetland provides;
  - d. The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed;
  - e. The probable effect on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife;
  - f. The size of the Wetland being considered;

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<sup>264</sup> Reference changed from PSA to CSA administrator for consistency.

- g. The amount of remaining Wetland in the general area;
  - h. Proximity to any waterway; and
  - i. Economic value, both public and private, of the proposed land change to the general area.
3. A Wetlands Use Permit shall not be issued unless the applicant has shown that the project or activity covered by the permit will not result in an unacceptable disruption to the aquatic resources. In determining whether a disruption to the aquatic resources is unacceptable, the criteria in (i) section 30302 of Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and (ii) section 5.29.4.F.2 shall be considered. A permit shall not be issued unless the applicant also shows either of the following:
- a. The proposed activity is primarily dependent upon being located in the wetland.
  - b. A feasible and prudent alternative does not exist.
4. Upon application for a Wetland Use Permit in a Noncontiguous Wetland that is less than 2 acres in size, the City shall approve the permit unless the City determines that the Wetland is essential to the preservation of the natural resources of the City. The City shall provide these findings in writing to the permit applicant stating the reasons for its determination. In making this determination, the City must find that one or more of the following exist at the particular site:
- a. The site supports state or federal endangered or threatened plants, fish or wildlife appearing on a list specified in Part 365 of the Natural Resources and Environmental Protection Act, 1994 PA 451; or
  - b. The site represents what is identified as a locally rare or unique ecosystem; or
  - c. The site supports plants or animals of an identified local importance; or
  - d. The site provides groundwater recharge documented by a public agency; or
  - e. The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland; or
  - f. The site provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species; or
  - g. The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies; or
  - h. The site provides pollution treatment by serving as a biological and chemical oxidation basin; or



- i. The site provides Erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter; or
- j. The site provides sources of nutrients in water food cycles and nursery grounds, and sanctuaries for fish.

#### **G. Wetlands Mitigation**

1. As authorized by section 5.29.4.E.4.b, the City may impose conditions on a use permit for a use or Development if the conditions are designed to remove an impairment to the Wetland benefits, to mitigate the impact of a discharge of Fill material, or otherwise improve the water quality.
2. The City shall consider a mitigation plan if submitted by the applicant and may incorporate the mitigation actions as permit conditions for the improvement of the existing Wetland resources or the creation of a new Wetland resource to Offset Wetland resource losses resulting from the proposed project. Financial assurances may be required to ensure that mitigation is accomplished as specified by the permit conditions. The City shall, when requested by the applicant, meet with the applicant to review the applicant's mitigation plan.
3. In developing conditions to mitigate impacts, the City shall consider mitigation to apply only to unavoidable impacts that are otherwise permissible utilizing the criteria under Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Mitigation shall not be considered when it is feasible and prudent to avoid impacts or when the impacts would be otherwise prohibited under this 5.29.4.
4. When considering mitigation proposals, the City shall make all of the following determinations:
  - a. That all feasible and prudent efforts have been made to avoid the loss of Wetland resource values; and
  - b. That all practical means have been considered to minimize impacts; and
  - c. That it is practical to replace the Wetland resource values that will be unavoidably impacted.
5. If the City determines that it is practical to replace the Wetland resource values that will be unavoidably impacted, the City shall consider all of the following criteria when reviewing an applicant's mitigation proposal:
  - a. Mitigation shall be provided on-site where practical and beneficial to the Wetland resources.
  - b. When subdivision a. of this subsection does not apply, mitigation shall be provided in the immediate vicinity of the permitted activity and within the same sub-watershed of the Huron River within which the proposed Wetland use is located (i.e., the Allen Creek, Fleming Creek, Honey Creek, Malletts Creek, Miller Creek, Swift Run Drain or Traver Creek sub-watersheds) where practical to the Wetland resources. If the proposed Wetland use is not within one of these listed sub-watersheds, then mitigation may be within the Huron River direct discharge area,

provided that mitigation in the Huron River direct discharge area shall be within the City limits or within 1 mile upstream of the City limits. Mitigation upstream of the proposed Wetland use is preferred.

- c. Only when it has been determined by the PSA Administrator that subdivisions a. and b. of this subsection are inappropriate and impractical shall mitigation be considered elsewhere.
  - d. Any proposal shall assure that, upon completion, there will be no net loss to the Wetland resources. Any mitigation plan approved under this section 5.29.4.G shall provide replacement of wetlands disturbed at a ratio of no less than 1.5:1 and no more than 2:1, in accordance with the current federal rules and state operating procedures. If those rules and procedures change, the most current ratio shall be used.
  - e. The proposal shall give consideration to replacement of the predominant functional values lost within the impacted wetland.
6. Any mitigation activity shall be completed before initiation of other permitted activities, unless a Phased concurrent schedule is agreed upon between the City and the applicant.
  7. Monitoring to establish documentation of the functional performance of the mitigation may be required as a permit condition, as well as necessary corrective actions required, to deliver the Wetland resource values identified.

#### **H. Approval for Legitimate Public Need**

City Council may determine that there is a legitimate public need for a proposed public project that is greater than the need to protect a wetland, and that the project may be exempted from certain requirements of this section 5.29.4.

1. For a project to be considered for exemption from any requirement of this, section 5.29.4, City Council must find, after full review and public hearing, that all of the following exist:
  - a. The project is either being performed by or required by a public agency; and
  - b. There is a legitimate public need, as per the requirements of this section 5.29.4.H, for the project that is greater than the need to protect a wetland; and
  - c. The proposed use cannot reasonably be accomplished utilizing alternative designs on-site; and
  - d. A reduction in the size, scope, configuration, or density of the design that would avoid, or result in less, adverse impact on a regulated Wetland cannot be reasonably accomplished; and
  - e. Mitigation shall be provided to the maximum extent possible within the scope of the project.
2. In determining whether the legitimate public need for the project exceeds the need to protect a wetland, the City Council must find that the benefit that reasonably may be expected to accrue from the project shall be greater than

the reasonably foreseeable detriments of the activity. The following general criteria shall be considered:

- a. The relative extent of the public need for the proposed activity;
- b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity;
- c. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public uses to which the area is suited, including the benefits the Wetland provides;
- d. The probable impact of the project in relation to the cumulative effect created by other existing and anticipated activities in the watershed;
- e. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife;
- f. The size of the Wetland being considered;
- g. The amount of remaining Wetland in the general area;
- h. Proximity to any waterway; and
- i. Economic public value of the proposed land change to the general area.

#### **I. Assessment Revaluation**

1. If a Wetland Use Permit is denied by the City for a proposed use, the landowner may request a revaluation of the affected property for assessment purposes to determine its fair market value under the wetlands use restrictions.
2. A landowner who is aggrieved by a determination, action, or inaction under this section 5.29.4I may protest and appeal that determination, action, or inaction pursuant to the General Property Tax Act (Act 206, Public Acts of 1893), being Sections 211.1–211.157 of the Michigan Compiled Laws.

#### **5.29.5. Variance<sup>265</sup>**

##### **A. Application<sup>266</sup>**

An application for a variance from the standards of this Chapter shall be filed with the Zoning Board of Appeals (ZBA) on a form provided by the PDSU Manager. The application shall specify the requirements from which a variance is sought and the nature and extent of such variance.

##### **B. Public Hearing and Decision**

The ZBA shall hold a public hearing on the application for a variance pursuant to section 5.28.5. Notice of the public hearing shall be provided consistent with section 5.28.5.<sup>267</sup> and shall provide public notice.

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<sup>265</sup> Text from Sec. 5:99. This section consolidates all of the various variance procedures scattered throughout the chapter being integrated into the UDC. Subsections 1 and 2 are new text to reflect current procedures.

<sup>266</sup> Section has been updated to be consistent with legal requirements of MCL 125.3604.

<sup>267</sup> Reference to revised general public notice section.

1. Any person shall be accorded the right to appear in person or be represented by a duly authorized agent.
2. The ZBA shall approve (with or without conditions) or deny the application after applying all of the criteria in sections 5.29.5.C, 5.29.5.D, and 5.29.5.E, as applicable.
3. The requisite written findings of fact, the conditions attached and the decisions and orders by the ZBA in granting or denying the variance shall be entered into the official record after they have been signed by the Chair of the ZBA and after written notice of the disposition of the variance has been served, either in person or by mail, upon the parties to the appeal, the PDSU Manager, and the City Clerk. The Chair shall, within 10 days after the date the ZBA has reached its final decision on an variance, Sign the necessary orders to effectuate the decision of the ZBA.<sup>268</sup>

### C. General Criteria

A variance may be allowed by the ZBA only in cases involving practical difficulties<sup>269</sup> after the ZBA makes an affirmative finding that each of these criteria are met:

1. That the alleged practical difficulties are exceptional and peculiar to the property of the person requesting the variance, and result from conditions that do not exist generally throughout the city; and
2. That the alleged practical difficulties that will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both; and
3. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter<sup>270</sup>, the practical difficulties that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance; and
4. That the conditions and circumstances on which the variance request is based are not a self-imposed practical difficulty; and
5. The variance to be approved is the minimum variance that will make possible a reasonable use of the land or Structure.

### D. Additional Criteria for Specific Types of Variances<sup>271</sup>

Variances to the following types of standards shall require that the ZBA make an affirmative finding that the application meets all of the criteria listed in section 5.29.5.C and also meets the specific criteria listed below that are applicable to that type of variance application.

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<sup>268</sup> This section is now consistent with the Appeal Procedure section.

<sup>269</sup> MCL 125.3604 has clarified that the term “unnecessary hardship now only applies to use variances which the ZBA does not grant.

<sup>270</sup> This reference was originally to Chapter 55, but it now refers to the entire UDC.

<sup>271</sup> Separate standards for off-street parking and landscaping variances were deleted because they were substantially identical to general variance criteria.

**1. Dish Antennas<sup>272</sup>**

In the case of an application for a variance from the Dish Antenna standards of section 5.16.6.B, the topographic features or special characteristics of the site create special conditions such that the strict application of those standards will prevent the reception of usable satellite Signals.

**2. Storm Water Management**

In the case of an application for variance from the storm water management standards in section 5.22, that Storm Water Management Systems have been provided to the maximum extent feasible with the goals of meeting the rules of the WCWRC related to storm water management.

**E. Criteria for Wetlands Variances<sup>273</sup>**

In the case of an application for a variance from the wetlands protection standards of section 5.23, evidence supports at least one of the following affirmative findings:

1. The general variance criteria in section 5.29.5.C have been met; or
2. The public benefit intended to be served by the standards in section 5.23 will be retained, despite more disruption of the Wetland than permitted by those standards; or
3. The topographical features or special characteristics of the site create conditions such that strict application of the standards in section 5.23 will result in less protection of the wetland; or
4. The application of the standards in section 5.23 would deny all reasonable use of the property.

**F. Rehearing**

An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be denied by the ZBA if the applicant is unable to present evidence to show that there has been a substantial change in facts, circumstances, or scope or nature of relief requested.

**G. Lapsing**

The ZBA may, upon review and public hearing, and unless good cause can be shown, declare an approved variance null and void if:

1. Construction authorized by the variance has not been commenced within 1 year after the date of approval; or has not been pursued diligently to completion; or
2. Occupancy of land or Buildings authorized by the variance has not commenced within 1 year after approval.

**5.29.6. Special Exceptions<sup>274</sup>**

All applications for Special Exception Uses shall be reviewed pursuant to this section 5.29.6. Any Special Exception Use lawfully established prior to, and lawfully

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<sup>272</sup> Text from Sec. 5:81(7).

<sup>273</sup> Text from second part of Sec. 5:220(1) and all of (2).

<sup>274</sup> Text from current Sec. 5:104.

continuing in existence on August 18, 1983,<sup>275</sup> as determined by the Zoning Coordinator PDSU Manager, and that is located in a district in which the Special Exception Use is permitted under the terms of this Chapter shall be deemed a conforming use without further action, application or review. Where modifications for these uses are desired, the provisions of section **Error! Reference source not found.** shall apply, except as otherwise provided by ordinance.

#### **A. Application**

All applications for Special Exception Uses shall be in writing, signed and filed with the PDSU and shall contain the following:

1. The applicant's name, address and interest in the application as well as the name, address and interest of every person having a legal or equitable interest in the land covered by the application.
2. A description of the proposed Special Exception Use sought.
3. A site plan that meets the requirements of section 5.29.7.
4. Supporting statements, evidence, data, information and exhibits that address those standards and requirements for assessing Special Exception Use permit applications outlined in section 5.28.2.

#### **B. Public Hearing**

The PDSU shall forward each application for a special exception to the Planning Commission, which shall hold a public hearing on any proposed Special Exception Use pursuant to section 5.28.5.5.28.5.<sup>276</sup>

#### **C. Planning Commission Action**

Following the public hearing, the Planning Commission may approve (with or without conditions) or deny the application based on the criteria listed in section 5.29.6.D. The decision on a Special Exception Use shall be incorporated in a statement of findings and conclusions relative to the Special Exception Use which specifies the basis for the decision and any conditions imposed.<sup>277</sup>

#### **D. Criteria for Approval<sup>278</sup>**

The Planning Commission, in arriving at its decision relative to any application for a special exception, shall apply the following criteria and, if the decision is to approve or approve with conditions, shall make a finding that these criteria have been substantially met.

1. The proposed use(s) shall be of such location, size and character as to be compatible with the appropriate and orderly development of the zoning

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<sup>275</sup> Date replaces "the date of this amendment".

<sup>276</sup> Existing text deleted and replaced with cross reference to revised and consolidated public hearing requirements.

<sup>277</sup> Required by MCL125.3502 (4)

<sup>278</sup> The following language from current Sec. 5:104(4) was not carried over because it is repetitive with the text of this section. In order to grant or amend a special exception use permit, the Planning Commission shall find that the foregoing standards are substantially met by the applicant and shall make its decision based upon findings relating to the requirements and standards as particularly set forth in the ordinance, the intent and purpose of the zoning ordinance, and the effect the proposed use will have on adjacent uses of land, the natural environment, and the capacity of public services and facilities affected by the land use.

district and adjacent zoning districts in which the site is situated. In applying this standard, the Planning Commission shall consider whether the proposed use:

- a. Will be consistent with the general objectives of the City Master Plan;
  - b. Will be designed, constructed, operated and maintained in a manner that is compatible with the existing and planned character of the general vicinity;
  - c. Will be consistent with the general character of the neighborhood considering population density, design, scale and bulk; and the intensity and character of activity;
  - d. Will not be detrimental to the use, peaceful enjoyment, economic value or Development of neighboring property, or the neighborhood area in general; and
  - e. Will not have a detrimental effect on the natural environment.
2. The location and size of the proposed use(s), the nature and intensity of the Principal Use and all accessory uses, the site layout and its relation to streets giving access to it, shall be such that traffic to and from the use(s), the assembly of persons in connection with the use(s), and the effect of the proposed use(s) on public services and facilities, will not be Hazardous or inconvenient to the neighborhood nor unduly conflict with the normal traffic of the neighborhood. In applying this standard the Planning Commission shall consider, at a minimum:
- a. The location of and access to off-street parking and the safe provision for pedestrian traffic;
  - b. The relationship of the proposed use to main traffic thoroughfares and to streets and road intersections;
  - c. Vehicular turning movements in relationship to traffic flow routes;
  - d. The intensity and character of traffic and parking conditions on the site, and in the general area; and
  - e. The requirements for additional public services and facilities that will be created by the proposed use will not be detrimental to the social and economic welfare of the community.
3. The standards of density and required Open Spaces for the proposed use shall be at least equal to those required by this Chapter in the zoning district in which the proposed use is to be located, unless a variance is granted pursuant to section 5.29.5.

#### **E. Conditions**

1. Reasonable conditions may be imposed upon approval of a Special Exception Use to reduce to a minimum any detrimental effect.
2. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the

land use or activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner.

3. Conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, shall become part of the site plan, and shall remain unchanged except upon mutual consent of the Planning Commission and the land owner after a public hearing that meets the notification requirements established in section 5.29.6.B. The Planning Commission shall maintain a record of the conditions that are changed.

#### **F. Activation and Continued Operation**

Any Special Exception Use approval pursuant to this section 5.29.6 must be activated within 3 years of the date of approval. If the use is activated within this period, the approval shall continue in force so long as the particular use or activity continues to operate as approved on the approved site, unless otherwise specified in the Planning Commission approval.

#### **G. Modification<sup>279</sup>**

Modification of a Special Exception Use shall be permitted as provided in this section 5.29.6.G, except as otherwise provided by this Chapter.<sup>280</sup>

1. A site may be modified per the requirements of this Chapter for Site Plan for Planning Commission approval or administrative amendment.
2. For those uses that have previously received Special Exception Use approval, an amended Special Exception Use application and a revised site plan shall be required. The amended application and revised site plan shall be reviewed in conjunction with the previously approved Special Exception Use and site plan to determine the aggregate impact of the proposed changes in conjunction with the existing use. The Planning Commission, upon review of the new or amended Special Exception Use application, may then:
  - a. Approve the new Special Exception Use or amend the previously-approved Special Exception Use.
  - b. Amend the previously-approved Special Exception Use and impose additional conditions to assure continued compatibility.
  - c. Deny the new Special Exception Use and site plan or the previously-approved Special Exception Use and revised site plan. Denial of the request does not change the status of the previously approved Special Exception Use or site plan.

#### **H. Lapsing**

When a use approved and activated under this section 5.29.6 or existing on August 18, 1983, ceases to function or is abandoned for a period of 24 months, the Special Exception Use status shall lapse and shall no longer be in effect. A 12-month extension to the 24 month period may be approved by the Planning Commission if:

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<sup>279</sup> Text from Sec. 5:104(7) *Special Exceptions*.

<sup>280</sup> The current reference is "except as otherwise provided by this ordinance".



1. The applicant requests the extension within 24 months of the date on which the date on which the use ceased to function or was abandoned; and
2. The active use of the property is anticipated to re-start within 12 months of the request for extension; and
3. The anticipated active use of the property will comply with all of the criteria applicable to the initial approval of the Special Exception Use that has ceased to function or been abandoned.<sup>281</sup>

#### 5.29.7. Site Plans<sup>282</sup>

No person shall construct, install or place any Building or site improvement or remove or disturb any Natural Features for which site plan is required, unless the approvals required by this Chapter and any necessary permits have first been obtained.<sup>283</sup>

##### A. Applicability

An approved site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any Natural Features, except for:

1. Construction of or addition to 1 single-family or Two-Family Dwelling or accessory Structure on a parcel zoned solely for residential purposes.
2. Removal or disturbance of any Natural Features on a lot which contains 1 single-family or Two-Family Dwelling and is zoned solely for residential purposes.
3. Construction solely on the interior of a Building that does not increase usable Floor area.
4. Construction, erection, or placement of Signs; retaining walls; Fences; buffer walls; curb carts for solid waste; and dumpsters used for commercial recyclables and related screening that encloses up to 100 square feet; 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.

##### B. Site Plan Procedure

Before submitting a site plan for formal review, the applicant shall meet with the PDSU Manager to review the proposal and applicable City requirements. To initiate a formal review, all drawings and other materials required by section 5.28.2 shall be filed with the PDSU Manager. A site plan shall not be considered filed until all drawings and other required materials have been submitted, and a site plan may be

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<sup>281</sup> Conditions 1 through 3 were added to meet legal requirements for standards and to reflect current practice.

<sup>282</sup> Text from Sec. 5:122 and following. The section on Time Limits in current sec. 5:130 was repealed by Ord. 10-23.

<sup>283</sup> Text from Sec. 5:132(1).

rejected if these materials are inadequate to confirm compliance with the requirements of this Chapter. The PDSU Manager shall review the site plan with other appropriate City departments and the applicant and, except in the case of an administrative modification to an approved site plan pursuant to section 5.28.9.A, shall make a report and recommendation on the proposed site plan to the Planning Commission.<sup>284</sup>

1. Before submitting a site plan application for formal review, the petitioner shall comply with section 5.28.1.<sup>285</sup>
2. Pre-Petition Conference. Before submitting a petition, the petitioner shall contact the PDSU 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 5.28.1.

### C. Site Plans for Planning Commission Approval

The Planning Commission shall review and approve (with or without conditions)<sup>286</sup> 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 Planning Commission shall make a recommendation to the City Council and the site plan, including the minor modifications, shall be considered in the manner provided for site plans for City Council approval.

1. 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% 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.
2. An addition to an existing Building, if the addition does not exceed 10% of the existing Floor area or 10,000 square feet, whichever is less.
3. Paving or expanding an existing parking lot, or construction of a new access road or driveway.
4. Modifications to an approved Natural Features protection plan or Natural Features mitigation plan that are not covered under the administrative amendment requirements.
5. Where no approved site plan exists on file with the PDSU, a minor change allowed by the administrative amendment requirements.

<sup>284</sup> Subsections i and ii were added from Ord. 08-29.

<sup>285</sup> Ord 08-29 had a cite to 5:135 here, but the written title matches 5:110 (the same section cited for other citizen involvement requirements, so that cross-reference was used).

<sup>286</sup> References to approval with conditions and to a Planning Commission recommendation have been added, to reflect current practice.

**D. Site Plans for City Council Approval<sup>287</sup>**

When the application cannot be approved by Planning Commission pursuant to section 5.29.7.C, the Planning Commission shall hold a public hearing and, within a reasonable time following the close of the public hearing, the Planning Commission shall make a recommendation to the City Council to approve or deny the site plan. Upon receipt of the Planning Commission's recommendation, the City Council shall approve or reject the site plan within a reasonable time following the close of the public hearing. If approval is conditioned on changes to the site plan, the applicant shall submit revised drawings with the necessary changes to the PDSU Manager within 30 days of approval by the City Council or the site plan approval shall lapse. Any changes to a condition placed on the site plan by City Council shall require City Council approval.

**E. Criteria for Approval**

The Planning Commission or City Council shall make its decision on the site plan based on the following criteria:

1. The contemplated Development will comply with all applicable local, state, and federal law, ordinances, standards and regulations; and
2. The Development will 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 section 5.28.4; and
3. The Development will not cause a public or private nuisance and will not have a detrimental effect on the public health, safety or welfare.

**F. Effect of Approval of Site Plan**

1. 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, if Development activities have substantially ceased during the previous year, then no permits shall be issued unless the site plan is reconsidered in the manner provided for new site plans. Nothing in the section shall prevent permits, such as Grading and Building permits, from being issued after 3 years from approval provided that substantial and good-faith progress has been made during the previous year.<sup>288</sup>
2. An approved site plan shall become part of the record of approval. Subsequent actions relating to the activity authorized shall be consistent with the approved site plan and any Development agreement, including but not limited to the measures for protection and mitigation of Natural Features.<sup>289</sup>
3. To obtain permits for any Building or site improvement, the property owner or owner's designee shall agree to construct, install or place all required site

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<sup>287</sup> Includes revisions from Ord. 10-23.

<sup>288</sup> Revised to clarify current practice.

<sup>289</sup> Subsection 2 text is from Sec. 5:132(2).

improvements in compliance with an approved site plan.<sup>290</sup> All public improvements must meet current City of Ann Arbor Public Services Area Standard Specifications. Prior to the issuance of any building permit, site improvements necessary to meet the requirements for fire coverage and emergency access must be installed and approved by the fire service unit.<sup>291</sup>

4. The property owner shall have a continuing obligation to maintain required site improvements, Natural Features to be preserved, and Natural Features mitigation in a good condition.<sup>292</sup>

### G. Site Plan Submittal Requirements

Applications for site plan and PUD site plan approval shall include 15 copies of a Development program, a community analysis, a site analysis, and general information as required for an area plan and PUD zoning district in Section 5.29.8.F, together with a detailed site plan drawn to a scale of one inch = 50 feet or larger, which includes the following:

1. A property survey by a professional land surveyor. If new City of Ann Arbor public sanitary sewer, water mains, Storm Water Management System, or streets are proposed in conjunction with a site plan or PUD site plan, plans must be referenced to the Ann Arbor Geodetic Reference System and final plans submitted in a City of Ann Arbor-approved digital format.
2. Comparison chart showing proposed Development and City regulations.
3. Number and type of Dwelling Units proposed including the number of bedrooms.
4. Height, number of stories, and placement of proposed Structures and accessory Structures, together with a scaled massing elevation drawing showing the existing and proposed exterior dimensions as viewed from all public streets, and including the elevations of the adjacent Buildings within 100 feet.
5. Number and dimensions of Parking Spaces, a photometric plan, and other requirements in compliance with section 5.19.
6. Required and proposed front, rear and side Open Space and setback lines, and any proposed Lot Lines.
7. Placement, height and type of construction of all Fences and walls, in compliance with section 5.26.
8. Refuse collection and storage stations, number of receptacles, and screening in compliance with Chapter 26, Refuse, of the Ann Arbor Code of Ordinances, and a statement as to whether public or private pick-up will be provided.
9. Location of existing Structures and Driveway Curb Cuts adjacent to the property.
10. Existing and proposed topographic contours at two-foot intervals including the area for a minimum of 50 feet beyond the property line. With the

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<sup>290</sup> Text from Sec. 5:132(3).

<sup>291</sup> Text from Sec. 5:132(3).

<sup>292</sup> Text from Sec. 5:132(5).

permission of the Building Director, spot elevations may be substituted for contours on developed sites where limited changes are proposed to the existing drainage pattern.

11. A detailed landscape plan, done at a minimum scale of 1 inch = 50 feet, shall be submitted as part of a site plan review, when such review is required by section 5.20.<sup>293</sup> The landscape plan shall include, but not necessarily be limited to, the following items:
  - a. The Vehicular Use Areas clearly indicated for the purpose of determining the landscape requirements for each Vehicular Use Area and a tabulation in chart form of each Vehicular Use Area including the square footage of each Vehicular Use Area, the square footage of each interior landscape area, and the number of trees proposed to meet interior and perimeter requirements.
  - b. Location and spacing of trees and shrubs proposed for use within a required landscape area in sufficient detail for a determination that the plan conforms with this Chapter.
  - c. A plant list of proposed landscape materials showing caliper sizes, root type (bare root, balled and burlapped, container size), height of material, botanical and common names, type and amount of mulch, ground cover and grasses.
  - d. Specifications for treatment of compacted soil on the entire site.
  - e. Existing and proposed contours on-site and 10 feet beyond the site at intervals not to exceed 2 feet.
  - f. The location of light poles, refuse containers, walls, Fences, protective curbing, mechanical equipment, and other hard landscaping materials.
  - g. Identification of location, species, and size of existing trees and vegetation to be preserved.
  - h. Irrigation plan, if appropriate, or water outlets (hose bibbs).
  - i. Planting and staking details to ensure proper installation and establishment of proposed plant materials in accordance with standards established by the public services area.
  - j. Identification of a landscape maintenance program including a statement that all diseased, damaged, or dead material shall be replaced in accordance with this Chapter by the end of the following planting season, as a continuing obligation for the duration of the site plan.
  - k. Identification of snow storage areas including a statement that snow shall not be pushed onto interior landscape islands unless designed for snow storage.
  - l. Other information or data determined necessary by the public services area administrator or designee such as construction details and/or cross-

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<sup>293</sup> The current text is when required by 5:600.2, but that refers in turn to Chapter 57, so all site plans are already covered.

sections sufficient to resolve specific site conditions. These conditions include, but are not limited to berms, retaining walls, screen walls, Fences, tree wells to preserve existing trees, or culverts to maintain natural drainage patterns.

12. A soil Erosion and sedimentation control plan in compliance with section 5.22.
13. The drainage area and direction of flow of land tributary to the site and proposed storm water management plan in compliance with section 5.22.
14. All existing and proposed streets, driveways, and Curb Cuts with dimensions, in compliance with section 5.21 and Chapter 47, Streets, of the Ann Arbor Code of Ordinances, and the Public Services Department standards.
15. All existing and proposed water lines, sanitary sewer lines, and storm sewer lines, together with proposed size, elevations, easements and other information as required by the Public Services Director, in compliance with the Public Services Department standards.
16. The provision of street trees as required in section 5.29.7.H.2 Street Tree Escrow Requirements.
17. The information required in section 5.29.7.H.3 Traffic Impact Analysis.
18. A field survey of Archaeological Resources, if determined necessary by City staff following the Archaeological Review Process, section 5.29.7.H.1.
19. In addition to the general description of all Natural Features on the site and within the area 50 feet beyond the property line shown as part of the required site analysis, the accurate location and description of all Natural Features within the Limits of Soil Disturbance and in an area extending 50 feet beyond the limits of soil disturbance, including:
  - a. The limits of soil disturbance.
  - b. The boundary and description of any Endangered Species Habitat.
  - c. The boundary and elevation of any 100-year floodplain.
  - d. The location, species, Critical Root Zone and condition of Landmark Trees.
  - e. The location of all Steep Slopes and a cross section through the site showing the proposed activity in relationship to the topography.
  - f. Existing and proposed Watercourses showing depths, normal water levels, shore gradients, type of bank retention and shore vegetation.
  - g. The boundary and character of all wetlands, as required by section 5.23 Natural Features Protection.
  - h. The boundary and basal area of any Woodland, with location, species, and DBH of all trees 6 inches DBH or greater within the Woodland area.
20. The location and extent of required Natural Features Open Space, in compliance with section 5.23 Natural Features Protection.
21. A Natural Features Statement of Impact, including a Natural Features Protection Plan, an Alternative Analysis, and a Natural Features Mitigation

Plan, as required by section 5.23, shall be used by City staff when reviewing proposed site plans and plats for sites containing Natural Features.

#### **H. Additional Requirements<sup>294</sup>**

A site plan application may require one or more of the below procedures, as required by other sections of this Chapter.

##### **1. Archaeological Review Process<sup>295</sup>**

- a. When a Development petition is submitted to PDSU for review, staff will determine if the site meets one of the following criteria:
  - i) Location of the Development site within a “high site potential” area (map available in the PDSU Office).
  - ii) Existence of a known archaeological site within a half mile of the Development site.
  - iii) The Development is on a site of five acres or greater.
- b. If PDSU staff determines that the petition meets one of the criteria, a copy of the proposal will be sent to the University of Michigan Museum of Anthropology for review.
- c. Museum of Anthropology staff will complete a file assessment to determine if there is a need for a field survey to document any archaeological finds and notify PDSU of its findings.
- d. If a field survey is necessary, PDSU will notify the petitioner and supply a consultant listing and the specifications for a field survey.
- e. The petitioner is responsible for making arrangements for the field survey to be completed and a report prepared. The petitioner must submit the report to PDSU staff before final approval of the Development petition will be scheduled. In the event that a field survey cannot be done due to frozen ground conditions, approval of a Development petition will be made conditional upon completion of such a report.
- f. If archaeological finds of significant impact are determined to exist on the site, PDSU will set up a meeting with Museum of Anthropology staff to review the report and determine whether modifications to the Development plans are necessary.

##### **2. Street Tree Escrow Requirements<sup>296</sup>**

###### **a. General**

As a requirement for approval of a plat or site plan, the Department of Parks and Recreation requires developers to pay a street tree escrow fee for the purpose of planting trees on the public street right of way abutting the new

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<sup>294</sup> This is a new section that incorporates various procedures from the Land Development Regulations that are often part of the site plan process.

<sup>295</sup> Text from Attachment B of Land Development Regulations.

<sup>296</sup> Text from Attachment C of Land Development Regulations.

Development. This process is administered through the Forestry Division of the Parks Department and the current rate is \$1.30 per linear foot of Street Frontage. This requirement is not to be confused with the landscaping requirements in section 5.20 which require specific plantings on private property.

**b. Consideration for Existing Trees**

In situations where there are existing street trees meeting City standards, the front foot base figure will be reduced by 45 feet for every existing acceptable tree. This is the average space required for one tree.

**c. Provisions for Request for Larger Trees**

- i) Property owners and developers who prefer to provide larger trees have an option which is a front foot charge proportional to the size of tree requested. For example, 3 3 1/2" diameter balled and burlapped (B & B) trees would require \$4 foot to cover the cost. This charge will be per foot depending on the size of the tree. The basis formula for computing the front foot charge for any given tree size is as follows:

$$\text{\$1.30} \times \text{trunk diameter in inches} = \text{per front foot escrow charge.}$$

- ii) The formula was determined by dividing the City's cost of planting a three inch diameter tree (\$175.50) by 45 feet spacing for each tree. This figure of \$3.90 per front foot was divided by the tree size (three inches) which equals \$1.30 charge per inch of trunk diameter. For example, the charge for large tree planting would be as follows:

$$2" \text{ B \& B} \times \text{\$1.30}/" = \text{\$2.60}/' \text{ front} \times 45'/\text{tree} = \text{\$117}/\text{tree}$$

$$2.5" \text{ B \& B tree} \times \text{\$1.30}/" = \text{\$3.25}/' \text{ front} \times 45'/\text{tree} = \text{\$146.25}/\text{tree}$$

$$3" \text{ B \& B tree} \times \text{\$1.30}/" = \text{\$3.90}/' \text{ front} \times 45'/\text{tree} = \text{\$175.50}/\text{tree}$$

- iii) The formula in ii) will vary from year to year to account for inflationary increases.

**d. Method and Timetable for Payment and Planting**

The escrow is to be paid by the owner or the individuals submitting the site plan or plat. The escrow amount is to be deposited with the Parks Department. The deposit for site plans must be made in full prior to issuance of a building permit. In the case of a plat, the escrow payment will be charged according to the provisions of the subdivision agreement.

**e. Developer Provided Street Trees**

- i) Developer may choose to provide the required street trees. In this case, the appropriate escrow amount shall be deposited prior to development, however, it will be refunded after the Forestry Division



has approved the street tree plantings. The Department's planting specifications are available on request.

- ii) Another option is the incorporation of private landscaping into a streetscape setting. This may be done with introduced landscape materials or existing on site plant material. The general requirements of the Department are that quality planting materials be used. Each plan of this type will be reviewed and judged on its individual characteristics by the City Forester.

**f. Street Trees for Unique Sites**

- i) There are a few right of way situations in the City where normal grass extensions do not exist, but the possibility of planting street trees should be considered. The most common of these situations is the CBD (Central Business District) where the right of way is entirely made up of concrete or asphalt sidewalk. Although not all these areas can be planted because of other restrictions, many are feasible street tree planting locations. Each site will be examined and analyzed individually. Since the number of trees that can be planted in these types of areas will vary greatly from site to site, the escrow charge will be based on a portion of the cost per tree that can be installed. The developer will be charged for all excavation (concrete removal or planter box construction) costs and the cost of a tree guard which shall not exceed \$300/tree. The Forestry Division and the Dean Fund Committee will make arrangements to cover the cost of purchasing and planting a 3" 3 1/2" B & B (minimum) tree. The charge of the developer will be determined when the site plan or plat is approved.
- ii) Another unique situation would be where normal extension planting is totally restricted, however, it is feasible to plant outside the right of way. In this case, the property owner would have to agree to such planting. If all parties can agree on a plan, the normal escrow, or in the case of concrete sites, a per tree charge would be applied.

**3. Traffic Impact Analysis<sup>297</sup>**

- a. The petitioner shall secure and present to PDSU, as part of any area plan, site plan or plat submission, a written analysis of the impact of any automobile-related Development proposal on the existing public street; vehicular, bicycle, or pedestrian traffic; and/or existing public street parking. Exceptions to this requirement will be site plans or plats that will generate less than three vehicle trips per unit per peak hour or 50 vehicle trips per peak hour. The generation of trips shall conform to the methods specified in the current edition of the Trip Generation Manual, a publication by the Institute of Transportation Engineers.
- b. Such analysis shall include the following:

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<sup>297</sup> Text from Attachment D of Land Development Regulations.

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- i) Existing traffic volumes passing on all streets abutting the proposed Development during the peak hour. Traffic from other new and proposed Developments in the area should be considered.
  - ii) Existing peak hour turning movements of vehicular traffic at all public street intersections within 200 feet of the proposed Development, or those intersections that may be impacted by the proposed Development.
  - iii) Projected peak hour generation rate and peak hours of generation for the proposed Development.
  - iv) Projected peak hour traffic movements as a result of the establishment of the proposed facility.
  - v) A capacity analysis for impacted intersections.
  - vi) A statement of the total impact the projected generations will have on the existing level of service as determined and certified by a registered engineer.
  - vii) A sketch plan showing all existing driveways to public streets within 200 feet of the proposed Development and all on-street parking or loading areas.
  - viii) Proposed site access driveways with a determination if a deceleration lane or taper is necessary based on current City warrant analysis standards, a determination if a left-turn by-pass lane is necessary based on a warrant analysis, and a sight distance study at the site access driveway.
  - ix) A pedestrian circulation plan showing all possible points of conflict between motorized traffic and pedestrian/bicycle traffic on public streets and sidewalks within 200 feet of the proposed Development, or those intersections that may be impacted by the proposed Development.
  - x) A gap study for pedestrian or vehicular traffic may be required at non-signalized locations that may be impacted by the proposed Development.
- c. The traffic and/or parking impact analysis shall be reviewed by the Department of Transportation for completeness and accuracy. The analysis shall include a determination of the service volume and capacity of adjacent streets including the traffic from the new Development. The methodology to be employed in determining street capacities shall conform to the 1985 edition of the Highway Capacity Manual, Special Report Number 209, or the latest revision thereof. Proposals that will contribute traffic to streets or intersections that are or will be as a result of this proposal at a level of Service D, E, or F as defined in the Highway Capacity Manual may be denied by Commission and Council until such time as necessary street or traffic improvements are scheduled for construction.

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**5.29.8. Area Plans<sup>298</sup>****A. Applicability**

An area plan must be approved by the City Council prior to:

1. The approval of any plat or site plan if the applicant owns or controls contiguous land not included in the proposed plat or site plan, or
2. An amendment to the zoning map, unless the amendment is to permit a one-family or Two-Family Dwelling in a residential zone or to permit a planned unit Development (PUD) zoning district.

**B. Waiver of Requirement**

Upon recommendation of the PDSU Manager, the Planning Commission may waive the area plan requirement upon the determination that no new construction is proposed and a survey of the existing improvements on the site is provided, or that all required information for such an area plan is included in a preliminary plat or site plan that has been approved or is submitted for approval.

**C. Area Plan Procedure**

Before submitting an area plan for formal review, the applicant shall meet with the PDSU 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 shall be filed with the PDSU Manager or designee. An area plan may be rejected if these materials are inadequate to make the foregoing determinations.<sup>299</sup> The PDSU Manager shall review the materials filed and, after conferring with the applicant and appropriate City departments, shall submit a report and recommendation to the Planning Commission. The Planning Commission shall hold a public hearing and, within a reasonable time following the close of the public hearing, the Planning Commission shall make a recommendation to the City Council to approve or deny the area plan. Upon receipt of the Planning Commission's recommendation, the City Council shall approve or reject the area plan within a reasonable time following the close of the public hearing. If approval by the City Council is conditioned on changes to the area plan, the applicant must submit revised drawings with the necessary changes to the PDSU Manager within 30 days of approval by City Council or the area plan approval shall lapse. If the revised drawings include all changes and conditions required by City Council, the PDSU Manager shall approve the area plan.<sup>300</sup>

**D. Criteria for Approval**

An area plan shall be approved by the City Council after it determines that:

1. The contemplated Development complies with all applicable state, local or federal laws, ordinances, standards and regulations; and
2. The Development will limit the disturbance of Natural Features to the minimum necessary to allow a reasonable use of the land; and

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<sup>298</sup> Text from Sec. 5:121, with changes as noted.

<sup>299</sup> Requirements for a complete application have been deleted as repetitive of the general requirements in section 5:27.

<sup>300</sup> Includes revisions from Ord. 10-23. Final sentence added to reflect current practice.

3. The Development will not cause a public or private nuisance and will not have a detrimental effect on the public health, safety or welfare; and
4. If the area plan requires an amendment to the zoning map, the proposed uses or other uses permitted under the proposed zoning will be compatible with the City's adopted plans and policies.

#### **E. Effect of Area Plan Approval**

An area plan is valid until replaced by an approved plat or site plan. The ordinances and regulations in effect at the time of City Council approval of an area plan shall be applicable to a plat or site plan consistent with the approved area plan for a period of 3 years, unless amended ordinances or regulations are specifically made applicable to approved area plans during that period.

#### **F. Area Plan Submittal Requirements<sup>301</sup>**

Applications for area plan and PUD zoning district approval shall include a brief description of the Development program, a community analysis, a site analysis, general information, and a schematic design for the entire Development site, 15 copies of which shall be filed with the PDSU Director. The site analysis and schematic design shall be drawn to the same scale of 1" equals 50 feet or larger.

##### **1. Development Program**

The Development program shall be a brief statement describing:

- a. The proposed land use and related improvements to the site, including amount of new Floor area, parking and proposed density.
- b. Preliminary phasing proposal and probable project construction cost.

##### **2. Community Analysis**

The community analysis shall be a brief statement of the following:

- a. Impact of proposed Development on Public Schools.
- b. Relationship of intended use to neighboring uses.
- c. Impact of adjacent uses on the proposed Development.
- d. Impact of proposed Development on the air and water quality, and on existing Natural Features of the site and neighboring sites.
- e. Impact of the proposed use on historic sites or Structures which are located within an historic district or listed on the National Register of Historic Places.

##### **3. Site Analysis**

A site analysis is a graphic description and brief statement of the existing site conditions and shall include:

- a. Existing land use and activity on the site.

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<sup>301</sup> Text from Attachment A of the Land Development Regulations, Sec. 1.3.

- b. An inventory of site conditions including: soil types; site vegetation; and existing topography at five foot or best available contour intervals.
- c. A general description of all Natural Features on the site and within the area 50 feet beyond the property line, including:
  - i) The nature and extent of Endangered Species Habitat.
  - ii) The location of any 100-year flood plain.
  - iii) The location, size and species of all Landmark Trees.
  - iv) The location of all Steep Slopes.
  - v) The location of existing Watercourses.
  - vi) The boundary and character of all wetlands.
  - vii) The boundary and basal area estimate, based on field samples, of any woodlands.
- d. Location and use of all existing Structures on the site.
- e. Existing and proposed vehicular, pedestrian and bicycle ways and access points.
- f. Utility availability and proposed connections together with all existing public rights of way and public and private easements.
- g. Existing and proposed general drainage pattern of the site and adjoining area.
- h. A summary in the form of an overlay showing how the proposed land use or activity relates to the graphic description of the existing site conditions including Natural Features.

#### **4. Schematic Design**

The schematic design is a brief statement and graphic description of the proposed Development drawn to a scale of approximately one inch = 50 feet or larger, including:

- a. Comparison chart showing proposed Development and City regulations.
- b. Existing and proposed topography at five foot or best available contour intervals and limits of soil disturbance.
- c. Orientation and general location of all proposed improvements.
- d. Vertical sections through the site showing existing and proposed elevations when the proposed improvements will result in a significant change in a Steep Slope.
- e. Proposed circulation patterns on site (pedestrian, vehicular, service, etc.)
- f. Proposed Lot Lines and setback lines.
- g. Areas of Natural Features which are proposed to be removed or disturbed and a general description of mitigation plans.

### 5. General Information

In addition to the above, the following shall be made a part of the total submission.

- a. Project name.
- b. Name, address and telephone number of the petitioner. If the petitioner is not the owner of the property, a letter of authorization to proceed with the application must be provided by the property owner.
- c. North indicator and drawing scale in bar graph form.
- d. Existing and proposed zoning.
- e. Total approximate Floor area of the proposed Buildings and, if applicable, number of Dwelling Units.
- f. Approximate proposed height of the Structures.
- g. Statement of interest in the land including conditions for sale or purchase of parcel such as deed restrictions, reservation of land for other uses or other conditions which may have bearing on the total land Development.
- h. Maps of applicant's entire holding and interest in land contiguous to the proposed Development.
- i. Vicinity map of all property within 250 feet of the Development.
- j. Time schedule indicating anticipated starting and completion dates of Development.
- k. Location and identification of all public areas and municipal corporation lines within or adjacent to the site.
- l. Legal description of the parcel, including total acreage of the parcel and total acreage of public roads contained in the legal description.
- m. One high quality copy of the proposed plan reduced to an 8 1/2 inch by 11 inch format.

#### 5.29.9. Subdivision<sup>302</sup>

No person shall divide land for which plat or land division approval is required, unless the approvals required by this Chapter and any necessary permits have first been obtained.<sup>303</sup>

#### A. Plats<sup>304</sup>

##### 1. Natural Features Necessity

Proposed plats shall be processed according to the Subdivision Control Act of 1967, being MCLA 560.101 et seq., and the requirements of this Chapter.

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<sup>302</sup> Text from Ch. 57: Subdivision and Land use Control, starting from Sec. 5:124, except the Purpose Statement, which is from 5:119.

<sup>303</sup> Text from Sec. 132(1).

<sup>304</sup> The Purpose Statement was deleted because its general purpose is already addressed in in Sec. 5.4.

## 2. Plat Procedures

Drawings and other required materials shall be filed with the Planning and Development Services (PDSU) Manager or designee. The PDSU Manager or designee shall review the materials filed and, after conferring with the applicant and appropriate City departments, shall submit a report and recommendation to the Planning Commission. The Planning Commission shall make a recommendation to the City Council on the tentative approval of a preliminary plat. The Planning Commission shall also make a report and recommendation to the City Council prior to the time the City Council must act on the final approval of a preliminary plat. Prior to approval of the final plat, the city administrator will provide the City Council with a report and recommendation on the plat.<sup>305</sup>

## 3. Standards for Plat Approval

Tentative approval of a preliminary plat shall be granted by the City Council only after it determines that the Development meets all of the standards for an area plan in section 5.29.8. Final approval of a preliminary plat shall be granted by the City Council only after it determines that the Development meets all of the standards for a site plan in section 5.29.7. A final plat shall be approved by City Council if it is consistent with the approved final preliminary plat and meets all applicable laws, ordinances and regulations.

## B. Land Divisions<sup>306</sup>

The purpose of this section is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act). A land division in violation of any provision of this section 5.29.9.B shall not be recognized as a land division on the city tax assessment rolls and no building permit shall be issued for any resulting parcel.<sup>307</sup>

### 1. Necessity

Proposed land divisions of unplatted parcels within the city shall be approved according to the State Land Division Act, the requirements of this section 5.29.9.B and the Land Development Regulations. The following shall be exempted from this requirement:

- a. A parcel proposed for subdivision through a recorded plat pursuant to section 5.29.9.A and the State Land Division Act.
- b. A division that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997.
- c. An exempt split as defined by the State Land Division Act.

### 2. Procedure

- a. A land division application shall be submitted to the PDSU Manager.<sup>308</sup>

<sup>305</sup> Includes edits from Ord. 10-23.

<sup>306</sup> Text from Sec. 5:125. Appeals procedures have been moved to section 5:27.8.

<sup>307</sup> Second sentence is from Sec. 5:125(4).

<sup>308</sup> Materials on the need for a complete application have not been carried over, since they would be repetitive of general procedures in section 5:27.

- b. The land division application shall be reviewed by PDSU, the Assessor Services Unit, Fire Services Unit, and Public Services Area, and comments from each reviewing unit shall be forwarded to the PDSU Manager.
- c. Within 45 days of the complete filing of a land division application, the PDSU Manager shall provide written notice to the applicant as to whether the land division is approved, approved with reasonable conditions, or denied and, if denied, the reasons for denial.
- d. Notice of the land division application shall be sent by first-class mail to property owners and residents within 300 feet of the boundary of the property upon which the division is proposed at least 14 days before the decision of the PDSU Manager. The notice shall indicate where and when the land division application may be examined, that the owner or resident receiving the notice may submit comments in person or in writing to the Planning Commission, and that the owner or resident receiving the notice may file comments with the PDSU Manager prior to the end of the review period.
- e. The City Assessor shall maintain official records of all approved land divisions.

### 3. Criteria for Approval

The PDSU Manager shall approve a land division only after he or she determines that the land division meets all of the following criteria:

- a. Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, Public Utility easements, accessibility, and the other requirements of this section.
- b. Each resulting parcel has a width not less than the width permitted by this Chapter.
- c. Each resulting parcel has a depth of not more than 4 times the width.
- d. Each resulting parcel has an area not less than the area required by this Chapter.
- e. Each resulting parcel is accessible by meeting at least 1 of the following requirements:
  - i) Each resulting parcel is served by a Driveway that provides vehicular access to an existing road or street and meets all City standards and those of the authority having jurisdiction over the road or street to which access is planned.
  - ii) Each resulting parcel is served by an existing or proposed easement that provides vehicular access to an existing road or street and meets all City standards and those of the authority having jurisdiction over the road or street to which access is planned.



- f. Each resulting parcel has adequate easements for public utilities from the parcel to existing Public Utility facilities.

#### 4. Further Division of Platted Lots

Any Lot, outlot or other parcel of land in a recorded plat shall not be divided into more than 4 parts unless the division occurs pursuant to the provisions of the State Land Division Act. Any division of a platted Lot or outlot into 4 parts or fewer shall be approved according to the procedures and standards described in this section 5.29.9.B.

#### 5. Administrative Land Transfers

The City Assessor and the PDSU Manager may approve property transfers between 2 or more adjacent parcels, if the transfer results in no new parcel being created upon which a Principal Building could be erected and if it does not cause a violation of this Chapter. The applicant shall provide to the PDSU Manager the required materials as specified for land divisions in this Chapter.

#### C. Required Approvals and Compliance<sup>309</sup>

1. Approval of a land division is not a determination that the resulting parcels comply with other ordinances or regulations.
2. To obtain permits for any Building or site improvement, the property owner or owner's designee shall agree to construct, install or place all required site improvements in compliance with an approved plat or land division. All public improvements must meet current City of Ann Arbor Public Services Area Standard Specifications. Prior to the issuance of any building permit, site improvements necessary to meet the requirements for fire coverage and emergency access must be installed and approved by the Fire Service Unit.
3. The property owner shall have a continuing obligation to maintain required site improvements, Natural Features to be preserved, and Natural Features mitigation in a good condition.

### 5.29.10. Rezoning

#### A. Purpose

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the municipality, the boundaries of any zoning district as shown on the zoning map<sup>310</sup> shall not be amended except to correct an error in the Chapter, because of a change in municipal policy, or because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions of that district.

#### B. Rezoning initiation:

Subject to the limitations of section 5.29.10.A, an amendment to the zoning map may be initiated by:

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<sup>309</sup> Text from Sec. 5:132(3) and (5).

<sup>310</sup> The current text refers to an amendment to "this Chapter" but in practice that means an amendment to the zoning map (covered here) or to the text, which is covered two subsections later.

1. City Council by resolution;
2. The Planning Commission; or
3. Application by property owner or designee.

#### **C. Action of the Planning Commission**

1. The Planning Commission shall hold a public hearing pursuant to section 5.28.5 on any proposed amendment to the zoning map. Notice of the public hearing shall be given in the same manner as provided in subsection 5.28.5. The Planning Commission shall hold the public hearing before transmitting its report to City Council.
2. The Planning Commission shall cause a complete study of the application to be made by the PDSU Manager and shall recommend to City Council such action as the Commission deems proper.

#### **D. Public Hearing by City Council**

1. A public hearing shall be held by the City Council before adoption of any proposed amendment to the zoning map. Notice of the public hearing shall be given according to section 5.28.5.

#### **E. Effect of Protest Petition to Proposed Rezoning**<sup>311</sup>

A protest against any proposed amendment to the zoning map may be presented in writing to the City Clerk prior to the final approval of the rezoning. The protest shall be duly signed by the owners of at least 20% of the area of land included in the proposed change, or the owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, excluding any publicly owned land. Following the filing of a valid protest application, adoption of an amendment to the zoning map shall require at least 8 affirmative votes of City Council at the second reading on the ordinance.

#### **F. Publication**

Following amendment of the zoning map by City Council, 1 notice of adoption shall be posted in a paper of general circulation in the local unit of government<sup>312</sup> within 15 days of adoption. The notice shall include:

1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
2. The effective date of the amendment; and
3. The time and place where a copy of the amendment may be inspected or purchased.

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<sup>311</sup> Revised to be consistent with MCL125.3403.

<sup>312</sup> The current text reads: "published in the Ann Arbor News" but has been replaced with text from MCL 125-3401(7).

## **G. Procedure for Rezoning Applications<sup>313</sup>**

### **1. Filing of Applications**

All applications for amendments to the zoning map shall be in writing, signed, and filed in triplicate with the City Clerk for presentation to City Council.

### **2. Contents of Application**

All applications for amendments to this Chapter, without limiting the right to file additional materials, shall contain at least the following:

- a. The applicant's name, address, signature, and interest of every person having a legal or an equitable interest in the land covered by the application.
- b. The nature and effect of the proposed amendment.
- c. If the proposed amendment would require a change in the zoning map, a full-dimensional map showing:
  - i) The land that would be affected by the proposed amendment;
  - ii) A legal description of the land;
  - iii) The present zoning classification of the land;
  - iv) The zoning classification of all abutting zoning districts; and
  - v) All public and private rights-of-way and easements bounding and intersecting the land under consideration.
- d. If the proposed amendment would require a change in the zoning map, the names and addresses of the owners of all land within the area to be changed by the proposed amendment.
- e. The alleged error in the zoning map, if any, that would be corrected by the proposed amendment together with a detailed explanation of the alleged error in the zoning map, and detailed reasons as to how the proposed amendment will correct that error.
- f. The changed or changing conditions, if any, in the area or in the municipality generally, that make the proposed amendment reasonably necessary.
- g. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

#### **5.29.11. Planned Unit Development (PUD) / Planned Project**

The City provides two different zoning tools for property owners to obtain more flexibility in development than is provided by the City's standard base and overlay zoning districts, as described in subsections A and B below.<sup>314</sup>

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<sup>313</sup> Text from Sec. 5:108.

<sup>314</sup> Introductory language is new.

**A. Planned Unit Development (PUD)<sup>315</sup>****1. Applicability**

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

**2. Alternative Standards Permitted**

The Planning Commission may recommend and City Council may approve, as Supplemental Regulations, modifications that increase, decrease, or eliminate the requirements in the areas listed below for equivalent land uses and intensities:

- a. Use regulations, and area, height and placement regulations otherwise applicable to the property pursuant to 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 5.29.11.A.7.e.
- b. Off-street parking requirements in section 5.19.
- c. Landscaping, screening, and buffering requirements in section 5.20.

**3. The PUD Process<sup>316</sup>**

The PUD process involves 5 consecutive steps: citizen participation, pre-application conference with staff, pre-petition conference with Planning Commission, PUD zoning district review, and PUD site plan review. The pre-application conference occurs before the applicant has submitted a formal application; zoning district and site plan reviews occur after the applicant has submitted a formal application. The PUD site plan review may occur only if the PUD zoning district has been approved as required by this section 5.29.11.

**a. Citizen Participation**

Before submitting a PUD application for formal review, the petitioner shall comply with section 5.28.1.

**b. Pre-application Conference with Staff**

Before submitting a petition, the petitioner shall contact PDSU 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 5.28.1.

**c. Pre-application Conference with Planning Commission**

Before submitting a PUD application, the applicant shall contact the PDSU Manager to schedule a pre-application conference at a regularly scheduled meeting or a working session of the Planning Commission. At the conference, the applicant shall present the proposed Conceptual PUD Plan

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<sup>315</sup> Text from Sec. 5:80, with changes as noted.

<sup>316</sup> This section includes edits from Ord. 08-29.

and PUD Development program. The Planning Commission will take no official action, but the commissioners and staff may provide the applicant 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 applicant's requests for zoning district approval and PUD site plan approval should be presented together at the same meeting or independently at separate meetings.<sup>317</sup>

**d. PUD Zoning District Review**

PUD zoning district review involves PDSU and Planning 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 in the approved PUD and all other applicable code requirements.

**e. PUD Site Plan Review**

Review and approval of a PUD site plan 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. An approved PUD site plan shall become part of the record of approval. Subsequent actions relating to the activity authorized shall be consistent with the approved PUD site plan and any Development agreement, including but not limited to the measures for protection and mitigation of Natural Features.<sup>318</sup>

**4. Effect of Approval<sup>319</sup>**

- a. No person shall construct, install or place any Building or site improvement or remove or disturb any Natural Features for which PUD site plan approval is required, or divide land for which plat or land division approval is required, unless the approvals required by this Chapter and any necessary permits have first been obtained.
- b. The property owner shall have a continuing obligation to maintain required site improvements, Natural Features to be preserved, and Natural Features mitigation in a good condition.

**5. PUD Zoning District Review Submittal Requirements**

The applicant for any PUD zoning district shall submit a complete application together with the following materials:

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<sup>317</sup> References to fees were deleted because those are covered in 5:27.

<sup>318</sup> The text of the last two sentences is from Sec. 5:132(2).

<sup>319</sup> Text from Secs. 5:132(1) and (5).

- a. 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 section 5.29.8 for area plans. The plan shall include but not be limited to 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 PUD.
- 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 that 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 as a 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 the Planning Commission determines during its preliminary

review that a model is unnecessary. With the approval of the PDSU Manager, other visual representations such as computer-enhanced photography or video may be substituted.

- g. Any additional graphics, photographs, or written materials requested by the PDSU Manager, Planning 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 5.29.11.A.7.e if applicable.

#### **6. Procedure for PUD Zoning District Review**

A PUD zoning district is established as follows:

- a. All required materials shall be filed with the PDSU Manager. Copies of the materials will be distributed by the PDSU Manager 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 PDSU Manager will notify the applicant of any questions raised by the City service units and other reviewing agencies and shall submit a report to the Planning 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 Planning Commission shall hold a public hearing with notification as required by section 5.28.55.29.10.D.
- d. The Planning 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 application, the City Council shall hold a public hearing with notification as required by section 5.28.55.29.10.D.
- f. A protest of a proposed PUD zoning district may be presented as provided in section 5.29.10.E

- g. The PDSU Manager shall keep a record of all approved PUD zoning districts and Supplemental Regulations. Notice of approvals shall be published as required by section 5.29.10.F.

#### **7. Standards for PUD Zoning District Review**

The Planning 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(s), 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 of those impacts, on present and potential surrounding land uses. The beneficial effects for the city that 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 that 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 the requirements of this Chapter, especially for those features prioritized in this Chapter 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 that contributes to the desired character and form of an established neighborhood.
- b. This beneficial effect for the city shall be one that could not be achieved under any other zoning classification and shall be one that 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 applicant 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 affordable housing for 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 affordable housing for lower income households.
  - ii) Affordable housing for 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 by a combination of affordable housing Development and contributions.
  - 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 Planning 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.

**8. 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(s) or subsequent owner(s) the right to seek PUD site plan approval for the proposal or for any of its approved Phases in accordance with section 5.29.11.A.11, 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.

**9. 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 in section 5.29.10.

**10. Deviation from Approved PUD**

Any deviation from the approved PUD zoning district or PUD site plan, except as authorized in this Chapter,<sup>320</sup> shall be considered a violation of this Chapter and subject to the penalties stated herein.

**11. Planned Unit Development (PUD) Site Plan<sup>321</sup>****a. 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.

**b. Applicability**

The requirements of this section 5.29.11 are specifically made applicable to:

- i) PUD zoning districts approved on or after February 3, 1999;
- ii) 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;

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<sup>320</sup> The current reference is to Chapter 57, but the reference has been broadened to apply to all regulations in the UDC, which is more accurate in the new code structure.

<sup>321</sup> Text from 5:123.

- iii) 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.

**c. Procedure for PUD Site Plan Review**

- i) The applicant for PUD site plan approval shall file with the PDSU Manager all drawings and other materials required for site plans in section 5.29.7; all drawings and other materials required in this Chapter<sup>322</sup> 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.<sup>323</sup>
- (a) **Citizen Participation.** Before submitting a site plan application for formal review, the petitioner shall comply with section 5.28.1.
- (b) **Pre-Petition Conference.** Before submitting a petition, the petitioner shall contact the PDSU 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 5.28.1.
- ii) If requested by the Planning 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.
- iii) The PDSU Manager 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 PDSU Manager will notify the applicant of any questions raised by the City departments and other reviewing agencies and negotiate a Development agreement with the applicant if it is determined that such an agreement is needed. The PDSU Manager shall submit a report and recommendation to the Planning Commission based on this review.

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<sup>322</sup> The current reference is to Chapter 55, but the reference has been broadened to apply to all regulations in the UDC, which is more accurate in the new code structure.

<sup>323</sup> Subsections (a) and (b) are from Ord 08-29.

- iv) The Planning Commission, after holding a public hearing on the PUD site plan with notification as required by section 5.29.10.D<sup>324</sup>, 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.

**d. Standards for PUD Site Plan Review**

City Council, after holding a public hearing on the PUD site plan with notification as required by section 5.29.10.D , and after receiving all related reports and minutes and a recommendation from the Planning 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:

- i) The Development would comply with the PUD zoning established pursuant to the requirements of this Chapter<sup>325</sup>, and with all applicable local, state, or federal laws, ordinances, standards and regulations; and
- ii) 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 section 5.28.4; and
- iii) The Development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.

**e. 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 in section 5.28.9.B.

**B. Planned Projects<sup>326</sup>**

**1. Purpose Statement**

The intent of this section 5.29.11.B is to provide an added degree of flexibility in the placement and interrelationship of the Buildings within the planned project and to provide for Permanent Open Space preservation within planned projects, but without the need for a PUD rezoning.<sup>327</sup> Modifications of the area, height, placement requirements, and Lot sizes, otherwise required by this Chapter may

<sup>324</sup> The current reference is to "This Chapter" but other PUD notice provisions cross-reference the notice required for rezonings, so that section is referenced. The same applies to the next subsection on Council hearings.

<sup>325</sup> The current reference is to Chapter 55.

<sup>326</sup> Text starts at Sec. 5:68 *Planned Projects*.

<sup>327</sup> The last clause has been added to distinguish planned projects from PUDs.

be permitted if the planned project would result in the preservation of Natural Features, additional Open Space, greater building or parking setback, energy conserving design, preservation of historic or architectural features, expansion of the supply of Affordable Housing for Lower Income Households or a beneficial arrangement of Buildings. A planned project shall maintain the permitted uses and requirements for maximum density, maximum Floor area and minimum usable Open Space specified in this Chapter for the zoning district(s) in which the proposed planned project is located.

## **2. Submittal Requirements**

- a. The applicant for a planned project shall submit the following materials:
  - i) A planned project site plan containing the information required by section 5.28.2 for site plans.
  - ii) Architectural sketches showing Building Height and cross-sections.
  - iii) An application identifying the specific sections of this Chapter to be modified, as well as explaining how the modifications will help achieve the objectives of the Development program and the standards described below.
  - iv) When a planned project seeks to permanently preserve Open Space by utilizing reduced Lot size, the applicant shall provide an alternative concept site plan of the property, drawn to scale. The alternative concept site plan shall illustrate the maximum number of Lots that could reasonably be achieved without application of the reduced Lot size, taking into account the application of all ordinances, laws, and regulations, including, but not limited to, road rights-of-way, parking, access and provision of utilities, and storm water management, Soil Erosion and Sedimentation Control Facilities.

## **3. Standards for Approval**

- a. Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement regulations of the zoning chapter in the form of a planned project site plan:
  - i) The Lot or Lots included in the planned project must meet the minimum gross Lot size requirement of the zoning district in which they are located. In residential zoning districts, the minimum gross Lot size shall be the combined total of the minimum gross Lot sizes for each dwelling on a parcel. However, the following exceptions may apply.
    - (a) For purposes of this section, zero Lot Line duplex or townhouse Development shall mean a Development containing attached single-family units on individual Lots. If a planned project for a zero Lot Line duplex or Townhouse Development provides Affordable Housing for Lower Income Households, the minimum gross Lot size and width requirements may be reduced. The number of Dwelling Units permitted shall not exceed the

maximum permitted density in the zoning district in which the proposed Development is located.

- (b) In any residential zoning district allowing 3 or fewer Dwelling Units per acre, when 20 percent or more of the total area of a Development is set aside for Permanent Open Space preservation, the gross Lot size may be reduced below the minimum Lot area per Dwelling Unit and width requirements for the zoning district in which it is located, as provided in this section 5.29.11.B.3.
- ii) The proposed modifications of zoning requirements must provide one or more of the following:
    - (a) Usable Open Space in excess of the minimum requirement for the zoning district. Where no minimum usable Open Space standard is required by the zoning district, a minimum usable Open Space standard shall be established by the approval of the planned project.
    - (b) Building or parking setback(s) in excess of the minimum requirement for the zoning district. Where no minimum building or parking setback is required by the zoning district, a minimum setback standard shall be established by approval of the planned project.
    - (c) Preservation of Natural Features that exceeds the requirements of this Chapter, especially for those existing features prioritized in this Chapter as being of highest and mid-level concern.
    - (d) Preservation of historical or architectural features.
    - (e) Solar orientation or energy conserving design.
    - (f) An arrangement of Buildings that provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or Impervious Surface.
    - (g) Affordable Housing for Lower Income Households.
    - (h) A recorded conservation easement or similar binding instrument providing for Permanent Open Space of 20 percent or more of the planned project, in any residential zoning district allowing 3 or fewer Dwelling Units per acre.
  - iii) The planned project shall be designed in such a manner that traffic to and from the site will not be hazardous to adjacent properties.
  - iv) The proposed modifications shall be consistent with the proper Development and use of adjacent land and Buildings.
  - v) Required off-street parking and landscaping must be provided in accordance with the provisions of sections 5.19 and 5.20.
  - vi) The standards of density, allowable Floor area and required usable Open Space for the zoning district(s) in which the project is located must be met.
  - vii) There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.

- viii) In any residential zoning district allowing 3 or fewer Dwelling Units per acre and where 20 percent or more of the total area is proposed for Permanent Open Space, projects shall meet the following standards:
- (a) The minimum gross Lot size of the parcel proposed for the planned project shall be 2 acres. The size and shape of the portions of the planned project designated for Open Space preservation shall be reviewed and approved in conjunction with a planned project site plan, or a plat, in relation to Natural Features or characteristics specific to that site.
  - (b) The area of each residential Building Lot or limited common area of a condominium Development shall be 10,000 square feet or greater, exclusive of the Permanent Open Space. Minimum Lot Width and setback requirements shall meet or exceed standards of the R1B residential zoning district.
  - (c) Permanent Open Space area shall be in, and shall continue to be in, an undeveloped, natural state preserving and conserving natural resources, Natural Features, scenic or wooded condition, or naturally occurring water surfaces. It may also provide an undeveloped greenway of contiguous or linear Open Space that includes habitats or corridors for wildlife, or links Parks, nature reserves, cultural features or historic sites with each other for passive recreation or for conservation purposes.
  - (d) Land in Permanent Open Space may be, but is not required to be, dedicated to the use of the public.
  - (e) Prior to the issuance of any permit, the Permanent Open Space shall be protected by a recorded conservation easement or similar binding instrument containing provisions for ownership and ongoing maintenance of the Permanent Open Space by a responsible party such as, but not limited to, a homeowner's association, an independent agency or trust established for such purposes, or a municipality for Open Space preservation. Such Permanent Open Space shall constitute 20 percent or more of the total area of a Development.
  - (f) The option of utilizing a conservation easement or plat dedication for Open Space preservation for not less than 20 percent of the total area may be exercised only one time on a parcel of land.
- b. The Planning Commission or City Council may add conditions to the approval of the planned project to achieve conformity to these standards.

#### 4. Approval Procedure<sup>328</sup>

- a. The planned project application, site plan and other required materials shall be filed with the PDSU Manager or designee. The PDSU Manager or designee shall review the materials filed and, after conferring with the applicant and appropriate City service areas, shall submit a report and

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<sup>328</sup> Includes amendments from Ord. 10-23.

recommendation to the Planning Commission. The Planning Commission shall hold a hearing and, within a reasonable time following the close of the public hearing, the Planning Commission shall make a recommendation to the City Council to approve or deny the planned project. Upon receipt of the Planning Commission's recommendation, the City Council shall approve or reject the planned project within a reasonable time following the close of the public hearing.<sup>329</sup>

- i) **Citizen Participation.** Before submitting a planned project application for formal review, the applicant shall comply with section 5.28.1.
  - ii) **Pre-Petition Conference.** Before submitting a petition, the applicant shall contact the PDSU 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 5.28.1.
- b. 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.
  - c. The approval of the application by the City Council shall allow the PDSU Manager 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 that 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.
  - d. 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.

#### 5.29.12. Design Review<sup>330</sup>

##### A. Intent

The intent of this section is to foster excellence in the design of Ann Arbor's built environment and apply the Downtown Design Guidelines, as approved by City

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<sup>329</sup> Subsections I and ii were added by Ord. 08-29.

<sup>330</sup> From Ord. 11-07.



Council, by requiring a mandatory review of certain projects in the downtown area by the Design Review Board. This section provides petitioners with the requirements of the Design Review Board's review process.

### **B. Applicability**

Projects that meet all of the following criteria shall submit an application to the Design Review Board:

1. The project is on a Lot zoned D1 or D2; or is located within the Downtown Development Authority boundary on a Lot currently zoned or proposed to be zoned PUD; and
2. The project is on a Lot that is not located within a historic district; and
3. The project proposes an increase in usable Floor area; and
4. The project is a:
  - a. Site Plan for City Council Approval; or
  - b. a Planned Unit Development Site Plan; or
  - c. a Site Plan for Planning Commission Approval; or
  - d. a Planned Project Site Plan; or
  - e. an Administrative Amendment to an Approved Site Plan that significantly alters the appearance of the Building from the Public Right-of-Way, as determined by the Planning Manager.

### **C. Submittal Requirements**

The following steps shall be undertaken by the petitioner as part of the design review process.

#### **1. Optional Pre-application Meeting**

The petitioner may meet with PDSU staff prior to an application to the Design Review Board to review the Downtown Design Guidelines and design review requirements set forth in this section 5.29.12.

#### **2. Application**

The petitioner shall submit to PDSU an application for Design Review Board review. Preliminary project design plans shall be submitted with the application and shall include the following scaled drawings:

- a. Site plan;
- b. Floor plan(s);
- c. Elevations; and
- d. Sections.

### **D. Timing**

Submission of the Design Review Board application shall occur prior to the fulfillment of the project's citizen participation notice and, if applicable, meeting requirements per section 5.28.1.

### **E. Number of Reviews**

One review by the Design Review Board is required for each site plan or planned unit Development that meets the applicability criteria of section 5.29.12.B. Additional reviews for projects with design changes are optional and must follow the requirements of this section.

### **F. Required Notice**

A Design Review Board meeting notice shall be mailed by the City to all property owners, addresses, and neighborhood groups within the same radius required by section 5.28.1 at least 10 business days prior to the date of the Design Review Board meeting.

### **G. Design Review Board Meeting and Report**

The petitioner shall present the project to the Design Review Board. The Design Review Board and the petitioner shall have an opportunity to discuss the design of the project and its consistency with the Downtown Design Guidelines. Following the discussion, the Design Review Board shall make a report of its discussion. This report shall be distributed to the Planning Commission and City Council as part of the site plan review and approval process and posted on the City website.

## **5.29.13. Chapter Text Amendment**

### **A. Comprehensive Review of Chapter<sup>331</sup>**

The Planning Commission shall from time to time, at intervals of not more than 3 years, examine the provisions of this Chapter and the location of zoning district boundary lines and shall submit a report to City Council recommending changes and amendments, if any, that are deemed to be desirable in the interest of public health, safety and general welfare.

### **B. Procedure**

The text of this Chapter may be amended by the same procedure used for a rezoning of land, as described in section 5.29.10, except that only notice pursuant to section 5.28.5.C shall be required, and that only the Planning Commission, not individual residents, may initiate a text amendment. Notice pursuant to sections 5.28.5.D and 5.28.5.E shall not be required.

### **C. Criteria for Approval**

The Planning Commission may recommend approval of a change to the text of this Chapter (with or without modifications), and City Council may approval a change to the text of this Chapter (with or without modifications), if it finds that the proposed change:

1. Would promote the health, safety, and general welfare of the citizens of Ann Arbor; and
2. Is consistent with the adopted plans of the City.
3. Is consistent with all applicable state and federal law.<sup>332</sup>

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<sup>331</sup> Text from Sec. 5:109 *Amendments*. Subsections B and C are new to reflect current City practice.

<sup>332</sup> Added to ensure full consideration of all applicable regulatory requirements.

**5.29.14. Landscape Modifications<sup>333</sup>**

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 if each of the following conditions are met:

- A. The modifications are consistent with the purposes stated in section 5.20.1;
- B. The modifications are included on a site plan and in a motion approved by Planning Commission or City Council; and
- C. The modifications are associated with one or more of the following site conditions:
  - 1. The site is located in a special parking district as designated in section 5.19.3.
  - 2. Strict application of this Chapter will result in a loss of existing Parking Spaces required by sections 5.19.2 or 5.19.3 where the parking does not abut residential uses.
  - 3. 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.
  - 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.
  - 5. The use of Bioretention areas, native or Prairie Plantings, structural amenities or **Xeriscaping** would prevent strict application of this Chapter.
  - 6. 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.
  - 7. 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.
- D. 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 section.

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<sup>333</sup> Current Sec. 5:608(1) was deleted because it is neither enforceable nor used, thus only Sec. 5:608(2) was carried forward as the landscaping modification procedure.

# Article VI: Nonconformities<sup>334</sup>

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## 5.30. Purpose Statement

It is the intent of this Article VI to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or Structures that are not in conformity with the provisions of this Chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Chapter. It is also the intent of this Article VI that any elimination of Nonconforming Uses or Nonconforming Structures shall be effected so as to avoid any unreasonable invasion of established private property rights.

### 5.30.1. General Standards

#### A. Use Non-Conformance

A non-conforming use may be continued and shall be maintained in good condition, but it shall not be:

1. Changed to another non-conforming use, except, after approval of the Zoning Board of Appeals. When granting such approval, the Board shall determine that such change in use will have a less detrimental effect on neighboring property than the existing non-conforming use.<sup>335</sup>
2. Structurally altered so as to prolong the life of the Building.
3. Expanded or increased in intensity of use (for example, such as by the addition of 1 or more Dwelling Units, by providing additional manufacturing or selling area, or the addition of facilities that would allow the establishment of another use or other uses).
4. Re-established after discontinuance for a period of at least 1 year.
5. Re-established in cases of residential usage in any "R" dwelling district after damage or destruction of the Building or Structure devoted to such non-conforming use if the estimated expense of reconstruction exceeds 70% of the appraised replacement cost (as determined by the Building Official) of the entire Building or Structure exclusive of foundations, prior to its damage or destruction. In cases of other than residential usage in any "R" dwelling district, the limitation on the expense of reconstruction shall be 50% of such appraised replacement cost.
6. Re-established in any zoning district other than an "R" dwelling district except under the same provisions as in section 5.30.1.A.5 above, providing that the expense of reconstruction shall be 70% rather than 50% of the appraised replacement cost (as determined by the Building Official) of the entire Building or Structure exclusive of foundations prior to its damage or destruction.

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<sup>334</sup> Most of the text for this Chapter is taken from Article VII *Nonconformance* with additional more specific provisions from other sections of the code as indicated. References to appeals have not been carried over because they are covered in 5:27.

<sup>335</sup> Language modified to be consistent with proposed changes to the city's zoning districts that replace the current pyramid zoning structure with a more standard and simple zoning scheme.

**B. Structure Nonconformance**

1. A Nonconforming Structure may be maintained or restored, but no alteration shall be made to a Nonconforming Structure unless 1 of the following conditions is met:
  - a. The alteration is approved by the Zoning Board of Appeals upon a finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
  - b. The alteration conforms to all the requirements of this Chapter and is made to a Building which will be a Single-family Dwelling on completion of the alteration and is located in an R1, R2, R3 or R4 district.
2. For purposes of this section 5.30.1.B, alteration shall mean any change in a Building that results in additional Floor area being fit for occupancy, a greater number of dwelling or rooming units or an increase in the exterior dimensions of the Building.
3. A Nonconforming Structure shall not be replaced after damage or destruction of the Nonconforming Structure if the estimated expense of reconstruction exceeds 75% of the appraised value, as determined by the Building Official, of the entire Building or Structure, exclusive of foundations.<sup>336</sup>

**5.31. Special Standards****5.31.1. Application of Dimensional Requirements to Lots of Record<sup>337</sup>**

- A. Where the owner of a nonconforming Lot of Record does not own and cannot reasonably acquire sufficient land to enable him to conform to the requirements of this Chapter relating to Lot area, Lot Width, or both, such Lot of Record may be used by such owner as a Building site, provided that such a use shall be limited to the permitted Principal Use that directly corresponds to the area, height, and placement characteristics of the Lot of Record. Except, that if a Lot of Record cannot conform to any minimum area, height, and placement regulations of the zoning ordinance, then the Lot of Record may be developed only for single-family residential use.
- B. Provided, however, where 2 abutting Lots of record are held under 1 ownership, and where 1 or both of these Lots are nonconforming, they shall each be considered as a single Lot of Record and are subject to the provisions of subsection A. above.
- C. Where 3 or more abutting Lots of record are held under 1 ownership, and where 1 or more of these Lots are nonconforming, the provisions of this Chapter<sup>338</sup>

<sup>336</sup> The entire "Development of Record" section (current Sec. 5:88), which follows this section, was deleted because it dates back to 1966 and is functionally obsolete.

<sup>337</sup> Text from Sec. 5:61 *Dimensional Standards*.

<sup>338</sup> The current code reference is to Chapter 55.

relating to Lot area and Lot Width shall not be avoided by the sale or conveyance of a portion of such Lots of record.

**5.31.2. Nonconforming Off-Street Parking<sup>339</sup>**

- A. Nonconforming parking Lots and driveways lawfully constructed prior to January 1, 1986 may be maintained and continued as Nonconforming Uses. All parking Lots or additions to existing parking Lots legally constructed after January 1, 1986, must meet the requirements of this Chapter.
- B. Nonconforming Bicycle Parking Spaces lawfully installed prior to November 26, 1995, may be maintained and continued as Nonconforming Uses. All new bicycle parking areas or additions to existing bicycle parking areas legally constructed after November 26, 1995 must meet the requirements of this Chapter.

**5.31.3. <sup>340</sup>Nonconforming Signs<sup>341</sup>**

- A. Signs lawfully erected prior to May 1, 1975, that do not meet the standards of section 5.24 shall be nonconforming and may be maintained provided the nonconforming Sign:
  - 1. Shall not be changed to another nonconforming Sign;
  - 2. Shall not have any change made in the words or symbols used or the message displayed on the Sign unless the Sign is specifically designed for periodic change of message;
  - 3. Shall not be structurally altered so as to prolong the life of the Sign or so as to change the shape, size, type or design of the Sign;
  - 4. Shall not have the face or faces changed when such Sign is a type of construction to permit such a complete change of face;
  - 5. Shall not be re-established or maintained after the activity, Business or usage to which it relates has been discontinued for 90 days or longer;
  - 6. Shall not be repaired or erected after being damaged if the repair or erection of the Sign would cost more than 50% of the cost of an identical new Sign.
- B. No person shall be required to remove a nonconforming Sign due to a change in the location of Buildings, streets or other Signs that change is beyond the control of the owner of the Sign and the Premises on which it is located.
- C. If the owner of a Sign or the Premises on which a Sign is located changes the location of a Building, property line or Sign or changes the use of a Building so that any Sign on the Premises is rendered nonconforming, that Sign must be removed or made to conform to this Chapter.
- D. Notwithstanding the foregoing, Signs that violate sections 5.24.10.E, 5.24.10.F, 5.24.10.G, 5.24.10.H, 5.24.10.I, 5.24.10.J or 5.24.9.K shall not be maintained in existence after September 1, 1975.

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<sup>339</sup> Text from Sec. 5;171 *Off-Street Parking*.

<sup>340</sup> Deleted per ORD-11-09.

<sup>341</sup> Text from Sec. 5:526 *Signs*.

**5.31.4. Nonconforming Activities on Wetlands<sup>342</sup>**

A use or activity regulated by section 5.23 that was lawfully begun before the passage of December 5, 1994, that is not in conformity with the provisions of section 5.23 **Error! Reference source not found.**, may be continued subject to the following:

- A. The use or activity shall not be expanded or enlarged in any way unless it is permanently changed to a conforming use.
- B. If a Nonconforming Use or activity is discontinued for 12 consecutive months, any resumption of the activity shall conform to this Chapter.
- C. If Nonconforming Use or activity is destroyed, it shall not be resumed except in conformity with the provisions of this Chapter.

**5.31.5. Non-conforming Curb Cuts<sup>343</sup>**

Curb cuts lawfully made prior to August 2, 1976 that do not meet the standards of this section 5.21 shall be considered non-conforming but may be maintained except as provided in sections 5.21.2.D, 5.21.2.E, and 5.21.2.F.

**5.31.6. Existing Easements and Lots<sup>344</sup>**

Where access and utility easements exist that are not in conformance with this section, the existing easement shall be considered a legal nonconforming access and may continue to serve the existing Lots associated with it. Any division of Lots served by a legal nonconforming access and utility easement shall conform to the requirements of section 5.21.

**5.31.7. Modification of Existing Special Exception Use That Does Not Have Approved Special Exception Permit<sup>345</sup>**

If the nature of a requested modification to a Special Exception Use requires full site plan review, per the requirements of this Chapter, the Planning Commission shall require a Special Exception Use application and a site plan for those Special Exception Uses that have not previously received Special Exception Use approval.

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<sup>342</sup> Text from Sec. 5:216 *Wetlands*.

<sup>343</sup> Relocated here from Streets and Access standards.

<sup>344</sup> Relocated here from Streets and Access standards.

<sup>345</sup> Relocated here from special exception procedures.

# Article VII: Enforcement, Violations, and Penalties

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## 5.32. Enforcement and Violations

### 5.32.1. General Provisions

- A. It shall be the duty of the PDSU to enforce the provisions of this Chapter, except when a different City department or entity is granted specific enforcement provisions in this Article VII.<sup>346</sup>
- B. Whenever the performance of any act is required or the performance of any act is prohibited by this Chapter, or whenever any regulations, dimension or limitation is imposed on the use of, or upon any property or parcel, or on the erection or alteration or the use or change of use of a Structure, or the uses within that Structure, a failure to comply with the provisions of this Chapter shall constitute a violation of this Chapter. In addition, violation of any condition imposed to any permit, approval, or variance granted pursuant to this Chapter shall be deemed a violation of this Chapter. Every day on which a violation exists shall constitute a separate violation and a separate offense.<sup>347</sup>

### 5.32.2. Specific Provisions

#### A. Storm Water Management and Soil Erosion<sup>348</sup>

1. The PDSU Manager shall inspect the work required by sections 5.22 or 5.29.3 and shall require adequate inspection of compaction by a Professional Engineer or by a soil testing agency approved by the PDSU Manager, unless the PDSU Manager determines that such inspection requirements may be waived due to the non-hazardous nature of the Grading. If the PDSU Manager finds any existing conditions not as stated in any application, Grading Permit or approved plan, the PDSU Manager may refuse to approve further work until approval of a revised Grading plan that conforms to the existing conditions or take actions in accordance with the section 5.33.2.A.
2. If work required by sections 5.22 or 5.29.3 is not completed or all the requirements, conditions and terms of the permit are not complied with, the PDSU Manager may order such work as is necessary to eliminate any dangerous conditions and to leave the site in a safe condition, or the PDSU Manager may order the work authorized by permit to be completed in a safe condition as determined by the PDSU Manager. The permittee making the cash deposit shall continue to be firmly bound under a continuing obligation

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<sup>346</sup> New provision reflecting current practice.

<sup>347</sup> Text from Sec. 5:105 *Special Exceptions*, and 5:100 *Zoning Board of Appeals*, but applicability is now extended to the full Chapter. The current reference is to Chapter 55, but we believe the practice has been to apply this to all UDC topics. ok

<sup>348</sup> Text from Sec. 5:662 and 5:669: *Grading*



for the payment of all necessary costs and expenses that may be incurred or expended by the City in causing any and all such work to be done.

#### **B. Wetlands**

1. Whenever there is a failure to comply with the provisions of section 5.23 or related section 5.29.4, the Community Services Area Administrator may issue a stop work order on the remaining portion of construction or shall refuse a certificate of occupancy or other construction permits related to the project.
2. If, on the basis of information available to the City, the City finds that a person is in violation of section 5.23 or related section 5.29.4 of a condition set forth in a permit granted pursuant to section 5.29.4, the City shall issue an order requiring the person to comply with the prohibitions or conditions or the City shall take such enforcement action as it deems appropriate. The order shall state with reasonable specificity the nature of the violation and shall specify a time for compliance, not to exceed 30 days, which the City determines is reasonable, taking into account the seriousness of the violation and good faith efforts to comply with acceptable requirements.

#### **C. Landscaping<sup>349</sup>**

1. No owner or occupant of property shall fail to maintain, to the standard of section 5.20, landscaping and screening materials shown on a site plan or building permit application.
2. No building permit shall be issued for property that is in violation of section 5.20.
3. A person who violates any provision of this Chapter is responsible for a civil infraction, punishable by a fine of up to \$2500.00 plus costs and all other remedies available by statute. Each day that a violation continues shall be deemed a separate offense. The fine shall be not less than \$250.00 for the first offense, not less than \$500 for a second offense, and not less than \$1000.00 for each additional or subsequent offense within a 2 year time period.<sup>350</sup>
4. In addition to the penalties provided in section 5.32.2.A, any person who violates any provision of section 5.20 shall be required to abate the violation in compliance with all applicable City Codes.
5. Inspection fees may be assessed by the Community Services Area for failure to respond to a correction notice at a rate of \$100.00 per re-inspection per violation. Fees shall be collected from Security bonds or shall become a debt to the City from the landowner and may be collected as a single Lot assessment under Section 1:292 of this Code, or in any other manner in which an indebtedness due the City may be collected.

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<sup>349</sup> Text from Sec. 5:612 *Landscaping*.

<sup>350</sup> Deleted per ORD-11-09.

#### D. Trees and Other Vegetation<sup>351</sup>

If private property, a Lawn Extension or City right-of-way is not maintained as required by this Chapter, the city administrator may have the work done to bring the property Lawn Extension or City right-of-way into compliance. The notice provided for enforcement of sections **Error! Reference source not found.**, **Error! Reference source not found.**, and **Error! Reference source not found.**<sup>352</sup> shall be sent to the address of the owner as shown on the Assessor's records at least 3 days prior to commencing the work. In the case of an immediate Hazard to public safety no prior notice shall be necessary. The actual costs of the work needed to bring the property, Lawn Extension or City right-of-way into compliance, plus an administration fee of \$50.00 shall be billed to the owner. If this amount is not paid within 45 days, it shall be a special assessment against the property as provided in section 1:292 of this Code. Under proof of financial hardship, the administrator may authorize charges under section 5.32.1 to be paid in installments or to be reduced and will be subject to City Council approval.

#### E. Signs<sup>353</sup>

Any wall, projecting, pole or Roof Sign that is suspended over a public street or property or for which the vertical distance of such Sign above the street is greater than the horizontal distance from the Sign to the street property line or parapet wall and so located as to be able to fall or be pushed onto public property may be routinely inspected once every calendar year. A fee shall be charged the owner or occupant of each Sign so inspected, but that such fee shall not be imposed more than once in any 3 calendar years unless violations necessitate additional inspections.

#### F. Fences<sup>354</sup>

If an unsafe condition exists in regard to a Fence, the PDSU Manager shall serve on the owner, agent or person in control of the property upon which such Fence is located, a written notice describing the unsafe condition and specifying the required repairs or modifications to be made to render the Fence safe or requiring the unsafe Fence or any portion of the Fence to be removed, and shall provide a time limit for such repair, modification or removal.

### 5.33. Penalties

#### 5.33.1. General Provisions

Each violation of this Chapter shall be a civil infraction punishable by a fine of up to \$500, except as otherwise provided in this section 5.33 or by another section of the Code.<sup>355</sup>

<sup>351</sup> Text from Sec. 3:17 and 3:18 *Trees and Other Vegetation*.

<sup>352</sup> Correct references need to be identified.

<sup>353</sup> Text from Sec. 5:515 *Signs*. The fee amount has not been carried over, since that is addressed in 5:27.

<sup>354</sup> Text from Sec. 8:435 *Fences*.

<sup>355</sup> Text from Sec. 5:106 *Special Exceptions*, but extended to be the basic penalty provision for the UDC.

### 5.33.2. Specific Provisions

#### A. Storm Water Management and Soil Erosion<sup>356</sup>

1. Whenever the performance of any act is required or prohibited by the provisions of section 5.22 or related section 5.29.3, a failure to comply with those provisions shall constitute a violation of this Chapter. The PDSU Manager may issue a stop work order on the remaining portion of construction or may refuse the issuance of building permits or certificates of occupancy. The PDSU Manager may also cause such work, as necessary for compliance with this Chapter, to be performed and the expense of work performed shall become a debt to the City from the landowner and may be collected as a single Lot assessment under section 1:292 of this Code, or in any other manner in which an indebtedness due the City may be collected. Additional enforcement provisions are included in Chapter 100 of this Code and the Michigan Construction Code.
2. Except as set forth in subsections 3 and 4 below, a violation of section 5.22 or related section 5.29.3 is a municipal civil infraction subject to a civil fine of no more than \$2,500.00 plus costs plus equitable relief as may be ordered by the court, including but not necessarily limited to ordering the person to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation. Each day and each violation is a separate violation.
3. A person who knowingly violates section 5.22 or related section 5.29.3 or knowingly makes a false statement in an application for a permit or in a soil Erosion and sedimentation control plan is responsible for a civil infraction and is subject to the payment of a civil fine of not more than \$10,000.00 for each day of violation, plus costs plus equitable relief as may be ordered by the court, including but not necessarily limited to ordering the person to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.
4. A person who knowingly violates section 5.22 or related section 5.29.3 after receiving a notice of the violation is responsible for a civil infraction and is subject to the payment of a civil fine of not less than \$2,500.00 or more than \$25,000.00 for each day of violation, plus costs plus equitable relief as may be ordered by the court, including but not necessarily limited to ordering the person to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.

#### B. Wetlands<sup>357</sup>

1. A person who violates any provision of section 5.23 or related section 5.29.4 shall be responsible for a civil infraction for which the court may impose a civil fine of not more than \$10,000.00 per day of violation plus all costs, direct or indirect, which the City has incurred in connection with the violation.

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<sup>356</sup> Text from Sec. 5:670 *Grading*.

<sup>357</sup> Text from Sec. 5:218 *Wetlands*.

2. In addition to the penalties provided in subsection 1 above, the court may order a person who violates section 5.23 or related section 5.29.4 to restore as nearly as possible the Wetland affected by the violation to its original condition immediately before the violation, and may issue any other orders permitted by law. The restoration may include the removal of Fill material deposited in a Wetland or the replacement of soil, sand, minerals, or plants.

### C. Trees and Other Vegetation<sup>358</sup>

The owner (as shown on the Assessor's records) of private property subject to sections 5.20.10 through **Error! Reference source not found.**<sup>359</sup> is responsible for compliance. Each violation of those provisions shall be a civil infraction punishable by a civil fine of up to \$1000.00, plus costs and all other remedies available by statute. Violation of sections 5.20.10 through **Error! Reference source not found.**<sup>360</sup> shall be punishable by a civil fine of not less than \$100.00 for the first offense, not less than \$250.00 for the second offense, and not less than \$500.00 for each additional or subsequent offense within a 2-year period, plus costs and all other remedies available by statute. The maximum fine for any offense shall not exceed \$1000.00. Each day of violation shall be a separate violation. If the penalty is not paid within 45 days, it shall be a special assessment against the property as provided in section 1:292 of this Code.

### D. Off-Street Parking<sup>361</sup>

Violation of any provision of section 5.19 constitutes a civil infraction punishable by a fine of not more than \$1,000.00 per violation plus costs and all other remedies available by statute. Each day upon which such violation shall occur shall constitute a separate offense. In addition to these penalties, upon the request of the city administrator or designee, the City Attorney may commence suit in a court of appropriate jurisdiction to abate any nuisance resulting from a violation of the provisions of section 5.19. If the penalty is not paid within 45 days, it may be assessed against the parcel under section 1:292 of this Code.

### E. Signs<sup>362</sup>

Any person violating any of the provisions of section 5.24 shall be guilty of a misdemeanor and, upon conviction of any such violation shall be punishable with a fine of not more than \$500.00 and not less than \$100.00.

Any Sign constituting an immediate Hazard to health and safety shall be deemed a nuisance and may be removed by the Community Services Administrator at the expense of the owner of the Sign and assessed under the provisions of section 1:292 of this Code; and provided, further, that except for those Signs that may be removed and destroyed or otherwise disposed of by the City in accordance with section 5.24.10.L, any Sign unlawfully erected, altered or maintained may be removed by the Community Services Administrator at the expense of the Sign owner and assessed under the provisions of section 1:292 of this Code after the Sign owner has

<sup>358</sup> Text from Sec. 3:19 *Trees and Other Vegetation*.

<sup>359</sup> Correct references need to be identified.

<sup>360</sup> Correct reference need to be identified

<sup>361</sup> Text from Sec. 5:172) *Off-Street Parking*.

<sup>362</sup> Text from Sec. 5:518 *Signs*.

been ordered in writing to remove the Sign by the Administrator and has refused to do so without providing justification for so refusing at a hearing to be held by the Community Services Administrator. The City Attorney may apply to a court of appropriate jurisdiction for an order requiring the removal of a Sign in violation of section 5.24.

**F. Subdivision<sup>363</sup>**

Violation by any person of any provision of this Chapter related to plats or land divisions or any related site plan or area plan, including but not limited to those in sections 5.29.8 and 5.29.9, 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.

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<sup>363</sup> Text from Sec. 5:138 Subdivision.

# Article VIII: Definitions<sup>364</sup>

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Words and phrases used in this Chapter shall have their usual and customary meaning, except that the following terms shall have the meanings stated below. In addition to the definitions below, the definitions from the following documents shall apply to this Chapter: (1) Part 91 of 1994 PA 451 (Michigan Compiled Laws) as amended; (2) Rules of the Washtenaw County Water Resources Commissioner; and (3) Ann Arbor City Code Chapter 103 *Historical Preservation*.<sup>365</sup> All words defined in the Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and used in this Chapter, shall have the meaning specified in that Act and the administrative regulations passed pursuant to that Act, unless a different definition for that term is provided in this Article VIII.<sup>366</sup>

## 5.33.1. Generalized Terms

The following generalized terms are used for specific groupings of zoning districts as follows:

- A. Single-Family Zone Districts – collectively refers to the R1A, R1B, R1C, R1D, and R1E Single-family Dwelling districts.
- B. Two-Family Zone Districts – collectively refers to the R2A and R2B Two-Family Dwelling districts.
- C. Multiple-Family Zone Districts – collectively refers to the R3 Townhouse Dwelling district and the R4A, R4B, R4C, R4D and R4E Multiple-Family Dwelling districts.
- D. Residential Zone Districts – collectively refers to the R1A, R1B, R1C, R1D and R1E Single-family Dwelling districts, the R2A and R2B Two-Family Dwelling districts, the R3 Townhouse Dwelling district, and the R4A, R4B, R4C, R4D and R4E Multiple-Family Dwelling Districts.

## Accelerated Soil Erosion

The increased loss of the land surface that occurs as a result of human activities.

## Accessory Use<sup>367</sup>

A land use that is subordinate in use, area, or purpose to a principal land use on the same Lot and serving a purpose naturally and normally incidental to such principal land use.

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<sup>364</sup> Definitions came from various sections throughout the code: Sections 5:1, 5:7, 5:10.20, 5:50, 5:51, 5:81(1), 5:120, 5:161, 5:201, 5:501, 5:601, 5:652, and 8:431.

<sup>365</sup> The second sentence Text is from 5:652 *Storm Water*, but has been made generally applicable to the UDC. Text reading “In the case of a conflict among the definitions in the documents listed above, the document listed first shall prevail over any conflicting definition of a document listed later” was not carried over.

<sup>366</sup> The last sentence text is from Sec. 5:201 *Wetlands*, but has been made generally applicable to the UDC.

<sup>367</sup> Revised definition – the current text reads “A land use that is incidental to a principal land use.”

**Adult Bookstore**

An establishment having as a Principal Activity the sale of books, magazines, newspapers, video tapes, video discs and motion picture films that are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy.

**Adult Day Care Center<sup>368</sup>**

A facility licensed by the state for aged, infirmed, or disabled adults (18 years old or older) that is operated during a part of the day only and provides supplementary care and protection of individuals who reside elsewhere, except the home or residence of an individual who cares for only persons related to him by blood or marriage.

**Adult Entertainment Business**

One or a combination of more than 1 of the following types of Businesses: Adult Bookstore, Adult Motion Picture Theater, Adult Mini-motion Picture Theater, Adult Personal Service Business, Adult Novelty Business, Adult Nightclub.

**Adult Foster Care<sup>369</sup>**

Use of a Structure constructed for residential purposes that is licensed by the state under the Adult Foster Care facility licensing act, 1979 PA 218, MCL 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.

**Adult Motion Picture Theater**

An enclosed Building with a capacity of 50 or more persons having as a Principal Activity displaying motion pictures characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy for observation by patrons therein.

**Adult Mini-Motion Picture Theater**

An enclosed Building with a capacity of less than 50 persons<sup>370</sup> having as a Principal Activity the presenting of material characterized by emphasis of portrayals of human genitals and pubic regions or actions of human masturbation, sexual intercourse or sodomy for observation by patrons therein in individual viewing booths.

**Adult Novelty Business**

A Business that has as a Principal Activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

**Adult Personal Service Business**

A Business having as a Principal Activity a person, while nude or Partially Nude, providing Personal Services for another person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services; massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the State of Michigan.

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<sup>368</sup> New definition.

<sup>369</sup> New definition.

<sup>370</sup> Text on size limits added to avoid overlap with “Adult Motion Picture Theatre” use.

### **Adult Nightclub**

A Business with the Principal Activity of providing entertainment by nude or Partially Nude performers.

### **Affordable Housing for Lower Income Households**

Housing units for households or individuals with income levels (including low and very low income levels) that are less than 80 percent of City of Ann Arbor median income as defined by the United States Department of Housing and Urban Development where the occupant is paying no more than 30% of gross income for housing costs, including taxes and utilities.<sup>371</sup>

### **Agriculture / Greenhouse<sup>372</sup>**

The production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products, conducted on either unenclosed land or in enclosed Structures, such as Greenhouses and Barns.

### **Airport, Municipal<sup>373</sup>**

A publically owned area of land that is used or intended for the use for the landing and takeoff of aircraft, and includes its Buildings and facilities, if any. Accessory Uses may include but are not limited to aircraft storage, servicing, fueling, or leasing; private aviation clubs or associations.

### **Approach**

An area improved for vehicular traffic on a public street right-of-way that connects the traveled portion of the street with a driveway.

### **Archaeological Resources**

Any material remains of past human life and activities that are of either historic or prehistoric archaeological interest.

### **Architect**

A person licensed by the State of Michigan to engage in the practice of architecture or landscape architecture, as defined by Act 299 of the Public Acts of 1980 (as amended), being Section 2001 or 2201 of the Michigan Compiled Laws of 1979.

### **Artist Studio<sup>374</sup>**

Work space for one or more artists or artisans, including space for the accessory sale of art produced on the Premises.

### **Asphalt and Concrete Mixing Plant<sup>375</sup>**

A plant for the manufacture or mixing of asphalt or concrete, including any apparatus and uses incident to such manufacturing and mixing.

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<sup>371</sup> Text from last sentence from “affordable housing.” This term has been combined as the two terms are used together.

<sup>372</sup> Revised definition – the current text is limited to “Agriculture: The production of crops”

<sup>373</sup> New definition.

<sup>374</sup> New definition.

<sup>375</sup> This definition was split apart from larger “scrap and waste material, Asphalt and Concrete Mixing Plants, sand and gravel pits, slaughterhouse” use.



**Automobiles, Motorcycles, Recreation Vehicles, Equipment (Sales and Rental)**

The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, construction equipment, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking Lots available for short-term use.

**Automobiles, Trucks and Construction Equipment Repair<sup>376</sup>**

Any Building, Structure, or Lot used for the Business of repairing automobiles, trucks, or construction equipment or the sale and installation of tires, batteries, and other minor accessories and services for automobiles, trucks, or construction equipment. This shall not include retail sale of vehicle supplies, tires, or parts unrelated to repairs being performed on the Premises, the retreading and/or vulcanizing of tires, filling stations, or convenience stores that sell gasoline or lubricating oil, except other vehicle accessories or services are included in this use.

**Bank, Credit Union, Financial Services<sup>377</sup>**

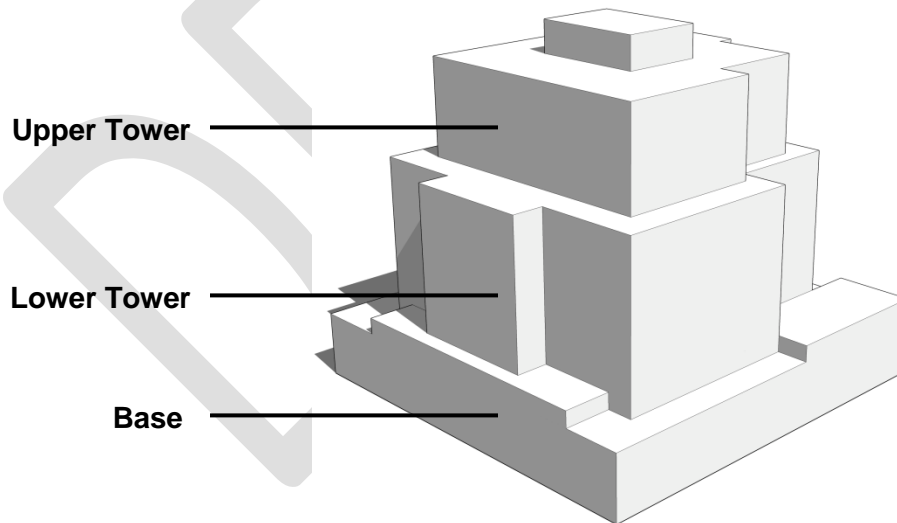
An establishment that provides retail banking, mortgage lending, and Financial Services to individuals and Businesses, and including check-cashing facilities. Accessory Uses may include automatic teller machines and Administrative Offices.

**Barn<sup>378</sup>**

An agricultural Building required to serve the farm on which it is located.

**Base**

The portion of a Building located between the street Grade and the Streetwall Height (see Figure 1).



**Figure 1: Base, Lower Tower, and Upper Tower**

<sup>376</sup> New definition. Use merges “Vehicle Repair and Storage.”

<sup>377</sup> New definition.

<sup>378</sup> Revised definition. The current text is “Barns and other agricultural buildings and structures required to serve the form on which they are located.”

**Bed and Breakfast (Principal)**<sup>379</sup>

A type of Hotel in which the operator typically lives and provides, but is not required, to serve meals to guests.

**Bed and Breakfast (Accessory)**<sup>380</sup>

A Building designed as a single Family dwelling in which the operator lives and provides guestrooms of lodging accommodations by prior arrangement to no more than 3 guests for compensation to nonfamily members where occupancy of the dwelling including guests complies with the requirements for the zoning district in which the dwelling is located. It may or may not include serving of meals to guests.

**Bicycle Parking Space**

An area and facility used for the securing of bicycles. This term shall include enclosed bicycle storage, covered bicycle racks, or fixed bicycle racks that meet the requirements the for bicycle parking in this Chapter.

**Billboard**

An Off-Premises Sign with an area in excess of 200 square feet.

**Bioretention**

A stormwater infiltration system capable of retaining and infiltrating runoff from the first one-half (1/2) inch of rainfall during any storm event.<sup>381</sup>

**Boarding House**

See Group Housing.

**Borrow Pit**<sup>382</sup>

An area from which soil or other unconsolidated material are removed and used, without additional processing, as Fill for other Development-related activities.

**Building**

Any Structure having a Roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind. When separated by division walls from the ground up without Opening s, each portion of such Structures shall be deemed a separate Building.<sup>383</sup>

**Building Coverage**

The percentage of a Lot covered by Buildings, including carports and parking Structures. Building Coverage is measured from exterior wall to exterior wall, including all structural projections except architectural features such as cornices, eaves and chimneys.

**Building Frontage**

The portion of a Building facing any adjacent public street.

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<sup>379</sup> New definition.

<sup>380</sup> New definition that addresses a Bed and Breakfast when operated as an Accessory Use and not as a Principal Use.

<sup>381</sup> New definition from Ord. 11-09.

<sup>382</sup> Revised definition. The current text reads "Sand and gravel Borrow Pits operated so as to shape and form the land for more desirable future residential use."

<sup>383</sup> The second sentence has been added to avoid manipulation of term by creating artificial connections between buildings in order to have them treated as single building. In addition, a definition of "building: A permanent structure for human occupation to which the sign relates" from the current sign regulations was deleted as no longer necessary.

### **Building Height**

The vertical distance of a Building measured from the average elevation of the finished Grade (the average elevation of the lowest and highest Building corners) to the highest point of the Roof for a flat Roof, to the deck line of a mansard Roof, or to the midpoint elevation between eaves and ridge for a gable, hip, or gambrel Roof of a building.

### **Building, Principal**

A Building or group of buildings in which the main or Principal Use is conducted on the Lot.

### **Business**

Any legal use of a building by a person, firm or corporation, other than for a religious institution, day care center, school, home occupation, or residence. Although contained in the same Building as another Business and owned by the same person, an activity may be treated as a separate Business if it is physically separated from, uses different personnel than, and provides different products or services than such other related Business.<sup>384</sup>

### **Business Center**

A group of 5 or more businesses that collectively has a name different than the name of any of the individual businesses and that has common private parking and entrance facilities, or that is a platted Business subdivision.

### **Business Frontage**

The length of the portion of a Building occupied by a single Business facing a street adjacent to the Premises on which the Business is located.<sup>385</sup>

### **Business Services<sup>386</sup>**

Service rendered to Business establishment or individual on a fee or contract basis including but not limited to actuarial, advertising, janitorial, Office or Business equipment rental, photocopying, and other such services.

### **Canopy**

The area within the outermost spreading vegetative layer of any woody plant(s) delineated by the Critical Root Zone.

### **Cemetery<sup>387</sup>**

Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundaries of the Cemetery.

### **Certification**

A signed, written statement by the PDSU Manager that specific improvements, inspections, or tests, where required, have been performed and that they comply with the applicable requirements of this Chapter or regulations adopted pursuant to this Chapter.

### **Child Care Center**

A facility that receives 1 or more children for care for periods of less than 24 hours a day.

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<sup>384</sup> Definition from current Sec. 5.501(4) in Ch. 61: Signs and Outdoor Advertising.

<sup>385</sup> This definition was renamed to distinguish it from the very similar definition for "Building Frontage."

<sup>386</sup> New definition.

<sup>387</sup> New definition.

**Christmas Tree Sales<sup>388</sup>**

A temporary Retail Sales operation, generally conducted wholly outside, that offers for sale Christmas trees and related holiday items, such as wreaths and tree stands.

**Clearing**

The severing of Woody Plants above ground level, leaving root system and stumps intact.

**Club Headquarters or Community Centers<sup>389</sup>**

Buildings and facilities owned or operated by a corporation, association, person, or persons for a place of meeting, social, cultural, or educational, or recreational purposes, to which membership or residency requirements are is required for participation.

**Coal and Coke Dealer**

Establishment engaged in the sale or distribution of coal and coke.

**Community Recreation<sup>390</sup>**

Use of a buildings and facilities accessory to townhouse and multiple-family dwellings for a social, educational, or recreational purpose, to which residency of the townhouse or multiple-family dwellings are required for participation and that does not render a service customarily carried on as a business,.

**Conceptual PUD Plan**

A graphic depiction in plan form of the elements of a planned unit Development district that illustrates the PUD Development Program and the district's Supplemental Regulations.

**Conference Center<sup>391</sup>**

A facility used for service organizations, Business and professional conferences, and seminars, and limited to accommodations for conference attendees.

**Contractors, General Construction and Residential Builders<sup>392</sup>**

Individuals or businesses offering services related to construction of buildings and development of land such as Residential Trade Contractors and home builders, highway and street, heavy construction and general buildings; Coal and Coke Dealers.

**Correctional Facility<sup>393</sup>**

A publicly or privately operated facility to house persons awaiting trial or persons serving a sentence after being found guilty of committing a crime. This use includes a prison, jail, and adult or juvenile detention center.

**Critical Root Zone**

The circular area surrounding a tree that is considered to contain tree roots within 18 inches of the ground surface. The radius of the Critical Root Zone is, in feet, the same numerical value as the tree's Diameter at Breast Height (DBH) in inches, and is measured outward from the center of the tree. For example, the Critical Root Zone of a 12-inch DBH tree has a radius of 12 feet.

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<sup>388</sup> New definition.

<sup>389</sup> New definition.

<sup>390</sup> Definition based on "Social club and Community Recreation building."

<sup>391</sup> New definition.

<sup>392</sup> New definition.

<sup>393</sup> New definition.

**Cultural Services<sup>394</sup>**

A facility, such as a Museum, art gallery, or similar public or semi-public use, that displays, preserves, and exhibits objects of community, cultural, or scientific interest.

**Curb Cut**

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.

**Cut or Excavation**

Any act, by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated, and shall include the conditions resulting therefrom.

**Data Processing and Computer Center<sup>395</sup>**

An establishment that conducts computer programming, software development, and training, and services and maintains electronic data processing equipment.

**DDA<sup>396</sup>**

The Ann Arbor Downtown Development Authority.

**Debris**

Loose refuse or earth material not suitable for use as presently situated or constituted.

**Development<sup>397</sup>**

Any human alteration to the state of land, including its vegetation, soil, geology, or hydrology, for any residential, commercial, industrial, utility, or other use, such as, but not limited to, clearing, grubbing, or Grading of land, and structural improvements (e.g., buildings, walls, Fences, Signs, and vehicular areas).

**Diameter at Breast Height (DBH)**

The diameter of a tree measured 4feet above the existing grade.

**Dish Antenna**

A signal-sending or receiving device for communicating with orbiting satellites.

**Distance from a Building to a Sign**

Shall be measured from the nearest wall of the building, or, in the case of a gasoline service station, the nearest gasoline pump, to the farthest portion of the Sign or its supporting Structure.

**Dormer<sup>398</sup>**

A window vertical in a Roof or the Roofed Structure such as a window.

**Drive-Through Window<sup>399</sup>**

A part of an establishment designed or operated to serve a patron who is seated in an automobile.

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<sup>394</sup> New definition.

<sup>395</sup> New definition.

<sup>396</sup> New definition.

<sup>397</sup> New definition.

<sup>398</sup> New definition.

<sup>399</sup> New definition.

**Driveway**

An access roadway between a public street and a Parking Space, Structure, or Lot.

**Dwelling Unit**

One or more rooms with kitchen and sanitary facilities designed as a unit for occupancy by a single Family.

**Dwelling Unit, Accessory<sup>400</sup>**

A subordinate and Accessory Dwelling Unit added to or created within a single-family dwelling Structure that provides basic requirements for living, sleeping, cooking, and sanitation.

**Dwelling Unit, Manager's<sup>401</sup>**

An Accessory Dwelling Unit located on a site used for nonresidential uses specifically for managers, security staff and caretakers of the Principal Use.

**Dwelling, Assisted Living<sup>402</sup>**

A multiple-family dwelling which may or may not be licensed by the State of Michigan where accessory services primarily for, but not limited to, older adults are provided to help with normal daily activities as an integral part of the dwelling. Assisted Living Dwellings may also be known as assistive living, continuing care community, senior independent living, senior living community, senior housing and care, and housing with services establishment, or other similar marketing term.

**Dwelling, Multi-Family**

A Building containing 3 or more dwelling units arranged either side by side or one above the other.

**Dwelling, Single-Family (or 1-Family)**

A detached Building connected to public water and sanitary sewer services containing 1 Dwelling Unit.

**Dwelling, Townhouse**

A Building containing 3 or more Dwelling Units arranged side by side, separated from each other by a firewall and having separate direct means of egress and ingress to each unit from the outside.

**Dwelling, Two-Family (or 2-Family)**

A detached Building containing 2 Dwelling Units, but not including 2<sup>403</sup> otherwise freestanding single Family units that are attached at one point or by a non-structural decorative feature.

**Earth Change**

Any excavation or cut, Fill or Grading as herein defined.

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<sup>400</sup> New definition. Merges definition of "accessory apartment."

<sup>401</sup> New definition.

<sup>402</sup> New definition.

<sup>403</sup> Revised definition – the second clause was added to avoid manipulation of the current definition.

**Electric, Gas and Sanitary Services<sup>404</sup>**

All lines and facilities related to the provision, collection, distribution, and transmission of water, storm and sanitary, power, and gas services.

**Emergency Shelter<sup>405</sup>**

A facility for the temporary shelter and feeding of indigents or disaster victims, operated by a public or non-profit agency.

**Endangered Species Habitat**

The habitat necessary to maintain the existence of those plants and animals listed on the current federal and state list of endangered or threatened species.

**Entertainment, General<sup>406</sup>**

Any establishment where generally non-sporting indoor entertainment, either passive or active, is provided for the pleasure of the patrons, either independent or in conjunction with another use. Examples include, but are not limited to, arcades, Pinball Parlors, dancing, music, karaoke, and similar uses. This use does not include any activity that meets the definition of indoor or Outdoor Recreation.

**Erosion**

The process by which the ground surface is worn and carried away by the action of wind, water, gravity or a combination thereof.

**Family**

An individual or group of individuals occupying a Dwelling Unit as a single Housekeeping Unit.<sup>407</sup>

**Family Day Care Home**

A private dwelling in which up to 6 minor children are received for care and supervision for periods of less than 24 hours a day.

**Fence**

Any artificial permanent Fence, partition, Structure, or gate erected as a dividing marker, barrier, or enclosure.

**Fill**

A deposit of soil or rock placed or replaced by people or machine.

**Final Acceptance**

Certification by the city administrator or designee that all obligations and work set forth in an approved site plan and Development agreement, if any, have been satisfactorily performed.

**Floodplain, 100-Year**

An area which has 1 percent chance of flood occurrence in any given year.

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<sup>404</sup> New definition based on definition for "Transportation, communications, electrical, gas and sanitary services."

<sup>405</sup> New definition.

<sup>406</sup> New definition.

<sup>407</sup> The phrase "in accordance with the standards of section 5:7" was deleted, since those would apply anyway.

**Floor**

The top surface of an enclosed area in a Building (including basement), i.e., top of slab in concrete slab construction and top of wood flooring in wood frame construction.<sup>408</sup>

**Floor Area, Nonresidential<sup>409</sup>**

Floor area for nonresidential uses shall be measured to the exterior face of the exterior walls for all Floor areas that are accessible by a fixed stairway, ramp, escalator or elevator, which may be made fit for occupancy. The measurement shall include the Floor area of any accessory buildings and above-grade parking Structures, except those portions of a parking Structure used for required premium or PUD parking. Below-grade parking cellar areas shall not be counted as Floor area. For the purpose of this subsection, the definitions of cellar and Grade contained in Chapter 100 of this Code shall apply.

**Floor Area, Residential**

The measurement of Floor area for residential uses shall be the sum of the area of the first Floor, as measured to the exterior face of the exterior walls, plus that area, similarly measured, of all other stories having more than 90 inches of headroom that are accessible by a fixed stairway and that may be made usable for human habitation; but excluding the Floor area of garages, accessory buildings, attics, breezeways, and unenclosed porches.

**Floor Area Ratio<sup>410</sup>**

The ratio of total Floor area of all Structures on a Lot to the total Lot area.

**Fraternity or Sorority House**

A Building used by a college fraternity or sorority as a principal place of residence for its members.

**Front Open Space**

The area enclosed by the Lot Lines, the street right-of-way line and the established line of setback. Established line of setback shall be a line, drawn parallel to the street, extending from the point at which a Principal Building is closest to the street outward to the Lot Lines. All area directly in front of any part of the Principal Building shall also be considered to be in front of the established line of setback.

**Fueling Station<sup>411</sup>**

A facility for the sale or distribution of gasoline or equally inflammable fuel oils. This use does not include any services other than distributing the fuel or sales of any other goods except those directly related to fuel sales and distribution. Other services or sales shall be considered separately.

**Funeral Services<sup>412</sup>**

A Building or place where ceremonies for the deceased are conducted.

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<sup>408</sup> New definition.

<sup>409</sup> The diagnosis states that the term “usable” will be deleted as unworkable for both the nonresidential category. This draft does the same for the residential category of Floor area. The remainder of the definitions have not been changed.

<sup>410</sup> New definition.

<sup>411</sup> Modified definition.

<sup>412</sup> New definition. This use merges “funeral home.”



### **Functional Family**

A group of people plus their Offspring, having a relationship which is functionally equivalent to a Family. The relationship shall be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional Family shall not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals where the common living arrangement or basis for the establishment of the Housekeeping Unit is temporary.

### **Government Offices and Courts<sup>413</sup>**

An Office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to: city hall, post Office, courts, employment Office, library, waste treatment facilities, Correctional Facility, public assistance Office, or motor vehicle licensing and registration services.

### **Grade or Grading**

Any Stripping, excavating, filling, Stockpiling or any combination those activities, and shall include the land in its excavated or filled condition.

### **Grading Permit**

A soil Erosion and sedimentation control permit issued to authorize work to be performed under this Ordinance.

### **Grading Site<sup>414</sup>**

All contiguous land under the same ownership, or one whole Lot in the case of land for which a recorded plat exists, on which Development is proposed or actively taking place

### **Group Day Care Home**

An Accessory Use of a private dwelling in which up to 12 minor children are given care and supervision for periods of less than 24 hours a day.

### **Group Housing<sup>415</sup>**

A Building containing a group of rooms forming a single habitable unit used or intended to be used for living and sleeping. Separate kitchen and dining facilities may or may not be provided within the building. Also known as a Rooming House or boarding house.

### **Grubbing**

To clear ground of roots and stumps by digging them up.

### **Guest House<sup>416</sup>**

A place for temporary lodging for Family members of a patient at a Hospital that usually has a resident manager, provides one or more meals per day to guests, and offers other support services.

### **Haul Road**

An on-site roadway constructed to prevent the spread of Debris onto the Public Right-of-Way.

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<sup>413</sup> New definition.

<sup>414</sup> Definition from Sec. 4:20(1)(d) *Streets* modified to be more comprehensive and to include the content from the deleted "Site" definition from Ch. 63, *Storm Water Management*, which read "Any lot or parcel of land or combination of contiguous lots or parcels of land where grading is performed or permitted."

<sup>415</sup> New definition to implement Ord. 10-32

<sup>416</sup> New definition.

**Hazard**

Any danger to public health, welfare and safety including exposure to risk of damage to property or liability for personal injury; or risk of harm to land, air or water resulting in environmental degradation. Hazards can include flooding and ponding, compaction and settling, landslides, earthquakes, toxic chemicals, radiation, fire and disease.

**Heavy Manufacturing<sup>417</sup>**

An industrial plant manufacturing, processing, or assembling of the uses stated in Sec. 5.16.5.A.2.

**High-Water Mark, Ordinary**

The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

**Home Occupation**

An Accessory Use of a nonresidential nature that is performed within a dwelling or within an accessory building, and conducted by members of the Family residing in the dwelling, and not more than one additional employee.

**Hospital<sup>418</sup>**

An institution or place where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are supervised or given care and treatment on a prolonged or permanent basis.

**Hotel**

A Building or portion of a Building containing 4 or more individual rooms, suites of rooms or Dwelling Units offered for transient sleeping accommodations for periods of 29 days or less and providing customary lodging services to guests, such as furnishing and upkeep of furniture and linens, concierge services, and communication and fitness facilities. This use includes motels.

**House Trailer<sup>419</sup>**

Any vehicle used or intended for use as a dwelling, regardless of whether such vehicle is self-propelling or is moved by other agencies.

**Housekeeping Unit**

A Dwelling Unit organized as a single entity in which the members of the household share common facilities.

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<sup>417</sup> New definition.

<sup>418</sup> New definition.

<sup>419</sup> From current Chapter 56 *Prohibited Land Uses*.

### **Impervious Surface**

All paved or hard surfaced areas, such as areas covered by buildings and Structures; roads and drives; parking Lots; formed curb and gutters; Vehicular Use Areas; brick or gravel surfaces; sidewalks; bike paths; patios; and any areas of concrete or asphalt or non-absorbent material.

### **Incidental Sales and Services**

Incidental and accessory Sales and Services intended for the convenience of occupants of the district, including newsstands, coffee shops, snack shops, indoor recreational facilities, dry cleaning, shoe shining, beauty salon or spa child care centers, Restaurants, and medical and Dental Offices.

### **Indoor Recreation<sup>420</sup>**

An indoor establishment having as its principal or predominant use the offering of sporting-related, participatory or spectator entertainment, and which may or may not sell alcohol for consumption on the Premises. Sandwiches, light meals, snacks, and/or full service meals may be available for consumption on the Premises but are not the principal or predominant use of the establishment. Examples include, without limitation: court game facilities, swimming pools, skating rinks, health clubs, and bowling alleys.

### **Industrial Plants, Manufacturing, Processing, Assembling<sup>421</sup>**

An establishment engaged in the manufacture or compounding process of raw materials. Such activities may include the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Examples include, but are not limited to: refining or initial processing of raw materials; rolling, drawing, or extruding of metals; asphalt batching plants; sawmills; meat slaughtering or packing house; and manufacture or packaging of cement products, feed, fertilizer, flour, glue, paint, petroleum products, soap, turpentine, varnish, charcoal, or distilled products.

### **Institution of Higher Learning, Private**

Private colleges, universities and other institutions of higher learning, offering courses in general, technical, or religious education.

### **Institution of Higher Learning, Public<sup>422</sup>**

A post-secondary public college or university that awards associate, bachelor, or higher degrees.

### **Invasive Species**

Botanical species included on the city's Invasive Species list that is maintained and updated in the building department, as provided under this Code.

### **Laboratory<sup>423</sup>**

A facility or area for conducting scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the Laboratory.

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<sup>420</sup> New definition.

<sup>421</sup> New definition. "Manufacturing plants" and "manufacturing / processing" have been merged with this use.

<sup>422</sup> New definition.

<sup>423</sup> New definition.

**Landmark Tree**

Any tree of 24-inch DBH or greater, or that is a type and DBH equal to or greater than shown on the Landmark Tree list in the land Development regulations, and that has a health and condition standard factor of over 50 percent based on the standards established by the Internal Society of Arboriculture. These standards consider the soundness of the trunk, the growth rate, the Structure of the tree, the presence of insects or disease, the crown development, and the life expectancy. The definition of a Landmark Tree shall not include any tree identified as an Invasive Species on the city's Invasive Species list.

**Laundry, Cleaning, and Garment Service<sup>424</sup>**

An establishment where laundry or dry cleaning is dropped off and picked up by customers, and that also includes on-site laundry and/or cleaning activities and garment tailoring services.

**Laundry and Dry Cleaning Plant<sup>425</sup>**

An industrial facility where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

**Lawn Extension**

The unimproved portion of any street right-of-way.

**Library<sup>426</sup>**

A public facility for the use and loan, but not sale, of literary, musical, artistic, or reference materials.

**Light Manufacturing<sup>427</sup>**

An industrial plant manufacturing, processing, or assembling of the uses stated in Sec. 5.16.5.A.1.

**Limits of Soil Disturbance**

A line marking the perimeter of the area within which there will be construction activity and any disturbance to the soils on a site.

**Lot**

A parcel of land, not including a public or private street, that may be a platted Lot of a recorded subdivision, a site condominium Lot, or a parcel of land that meets the requirements of this Code.

**Lot Area, Gross**

The full area of a lot, including any land dedicated or designated, or to be dedicated or designated, for public parkland<sup>428</sup>.

**Lot, Corner**

A lot or parcel of land abutting 2 or more streets at their intersection, or two parts of the same street forming an interior angle of less than 135 degrees.

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<sup>424</sup> New definition.

<sup>425</sup> New definition.

<sup>426</sup> New definition.

<sup>427</sup> New definition.

<sup>428</sup> New definition based on current practice.

**Lot Line**

The boundary of a Lot.

**Lot Line, Front**

The Lot Line separating a Lot from a street.

**Lot Line, Rear**

The Lot Line opposite and most distant from the Front Lot Line; or in the case of irregularly-shaped Lots, a line 10 feet in length entirely within the Lot, parallel to and at a maximum distance from the Front Lot Line.

**Lot Line, Side**

Any Lot Line other than a front or Rear Lot Line.

**Lot of Record**

A Lot for which the deed, prior to January 1, 1963, is on record with the Washtenaw County Register of Deeds and that exists as described in those records. (See section 5.31.1 for regulations.)

**Lot Width**

The length of a straight line drawn between the points where the front setback line cuts the side Lot Lines.

**Management /Maintenance Building<sup>429</sup>**

Use within a principal or accessory Building for storage of maintenance supplies to be used on the site of the Principal Use, or occupied by a person for day-use for the purpose of managing a property, Building, or facility.

**Marijuana**

That term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.<sup>430</sup>

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<sup>429</sup> The Accessory Use “storage maintenance building, enclosed” has been merged with this use.

<sup>430</sup> From Ord 10-37.

### Massing Articulation

The way in which a building wall surface is broken down into vertical modules, sub-parts or major elements, which are distinguished by changes in materials, texture or surface plane (see Figure 2).

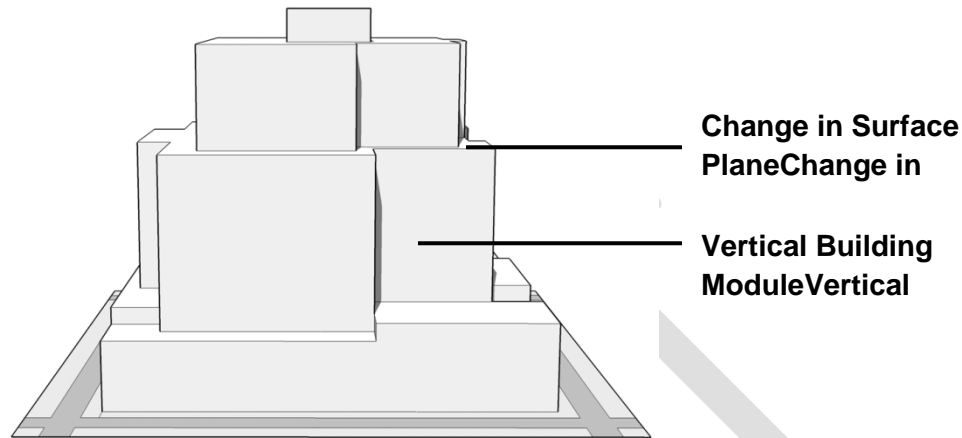


Figure 2: Massing Articulation

### Medical Laboratory<sup>431</sup>

A facility or area for conducting medical research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the Laboratory.

### Medical Marijuana Cultivation Facility<sup>432</sup>

A building or part of a building where Marijuana plants are being grown in compliance with the Michigan Medical Marijuana Act, other than a Medical Marijuana Home Occupation or a Dwelling Unit in which Marijuana is being cultivated for a Qualifying Patient who resides in the Dwelling Unit as permitted under the Michigan Medical Marijuana Act.

### Medical Marijuana Dispensary

A Building or part of a Building where one or more Primary Caregivers operate with the intent to transfer Marijuana between Primary Caregivers and/or Qualifying Patients, other than a Medical Marijuana Home Occupation or a Dwelling Unit in which the transfer of Marijuana occurs between a Primary Caregiver and Qualifying Patient who resides in the Dwelling Unit as permitted under the Michigan Medical Marijuana Act

### Medical Marijuana Home Occupation

An Accessory Use of a nonresidential nature that is conducted by a registered Primary Caregiver who resides in the dwelling and (A) is performed within a Single-Family Dwelling or within an accessory Building to that single-family dwelling; (B) is for the purpose of assisting one or more registered Qualifying Patients with the Medical Use of Marijuana who do not reside in the dwelling and (C) complies with the MMMA.

<sup>431</sup> New definition.

<sup>432</sup> New definition from Ord. 10-37.

**Medical or Dental Office**<sup>433</sup>

An establishment where patients who are not lodged overnight are admitted for examination and treatment by an individual physician or dentist or a group of physicians and dentists in practice together.

**Medical Use**

As used in the context of Marijuana, means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered Qualifying Patient's debilitating medical condition or symptoms associated with the debilitating medical condition.<sup>434</sup>

**Message Unit, Signs**

Each of the following equals 1 Message Unit: a word, an abbreviation, a number, a symbol, a geometric shape, a person's or firm's initials, a web site, an electronic mail address. Letters or numbers 4 inches or smaller in height and punctuation marks are not counted in computing a number of Message Units. When a Business has a Sign with identical Sign messages facing opposite directions, only the Message Units on one side of each such pair shall be counted in computing the permitted number of Message Units.

**Michigan Medical Marijuana Act**<sup>435</sup>

The Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, also referred to as the MMMA.

**MMMA**

See Michigan Medical Marijuana Act.

**Mobile Home Park**<sup>436</sup>

A parcel of land under one ownership that has been planned and improved for the placement of two or more mobile homes for rental purposes for non-transient use.

**Museum**<sup>437</sup>

A Building having public significance by reason of its architecture or former use or occupancy or a Building serving as a repository for a collection of natural, scientific, or literary objects of interest, or works of art, and arranged and designed to be used by members of the public for viewing, with or without admission charge, and which may include as an Accessory Use the sale of goods that are related in topic with the primary purpose of the Museum.

**Native or Prairie Plantings**

The exclusive use of plants in a landscape planting that were in Ann Arbor prior to European settlement in Michigan.<sup>438</sup>

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<sup>433</sup> New definition.

<sup>434</sup> From Ord. 10-37

<sup>435</sup> From Ord 10-37.

<sup>436</sup> New definition.

<sup>437</sup> New definition.

<sup>438</sup> New definition from Ord. 11-09.

**Natural Features<sup>439</sup>**

Any 1 or more of the following: Endangered Species Habitat, 100-year Floodplain, Landmark Tree, Steep Slope, Watercourse, wetland, and woodland.

**Nonconforming Structure**

A lawfully-established Building or Structure that does not conform to the area, height, or placement regulations of this Chapter.

**Nonconforming Use**

A lawfully-established use of land that does not conform to the use regulations of this Chapter.

**Noncontiguous Wetland**

A Wetland that is not "contiguous" as defined by law for Wetland regulation.

**Non-Erosive Velocity**

A speed of water movement that is not conducive to the Development of accelerated soil Erosion.

**Nonprofit Corporation<sup>440</sup>**

An incorporated organization or group whose charter prohibits profit-making endeavors and which enjoys tax exemption privileges.

**Nursing Care Facility<sup>441</sup>**

Licensed facilities primarily engaged in providing shelter, food and intermediate or long term nursing and health related care for individuals, , but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**Nursery School**

A daytime group facility that has as its main objective a developmental program for pre-school children and whose staff meets the educational qualifications as established by the State of Michigan.

**Office, General<sup>442</sup>**

An establishment in which goods, wares or merchandise are not commercially created, displayed, stored, exchanged or sold, but is intended for the conduct or service by a commercial enterprise, or space for the conduct of professional or Business Service. Examples include, but are not limited to, administrative, legal, accounting, management, advertising, general Business not listed elsewhere, consulting, and real estate offices.

**Office, Administrative/Executive<sup>443</sup>**

Space for executive, administrative, management and support staff of the Principal Use, which is typically a Research/Development or industrial use.

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<sup>439</sup> This definition was retained over a second and narrower definition reading "A wetland, as defined by Chapter 60 of the City of Ann Arbor Code of Ordinance, or a Watercourse, as defined in the Land Development Regulations, or both.

<sup>440</sup> New Definition.

<sup>441</sup> This use has been merged with "convalescent / nursing homes."

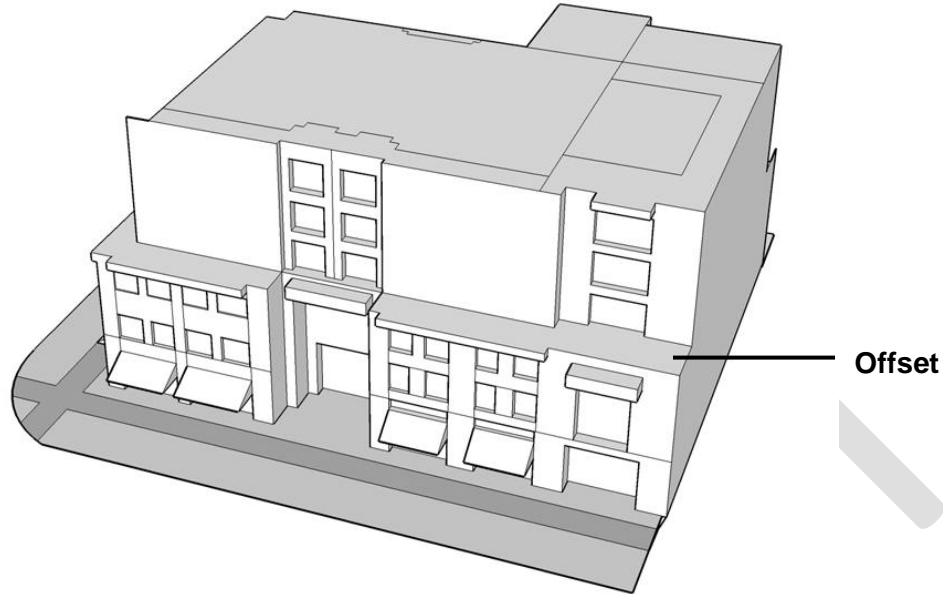
<sup>442</sup> Modified definition.

<sup>443</sup> New definition. Use was converted from a Principal Use to an Accessory Use.



### **Offset**

The distance that the exterior wall of a Tower or upper stories of a Building is set back from the Streetwall or the exterior wall of the Base (see Figure 3). For purposes of this definition, unenclosed balconies are not considered to be part of the exterior wall of a Tower.



**Figure 3: Offset**

### **Offspring**

Descendants, including natural Offspring, adopted children, foster child and legal wards.

### **Oil and Gas Wells<sup>444</sup>**

Any well drilled, to be drilled, or used for the intended or actual production of natural oil, gas, or other hydrocarbons.

### **Opacity, Fence**

The degree to which a Fence is impervious to rays of light. This condition will be measured by observation of any 2square yard area of Fence between 1 foot above the ground level and the top of the Fence. The observation shall be from a direction perpendicular to the plane of the Fence.

### **Opening**

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.

### **Open Space, General**

The portion of a Lot that is devoted to Outdoor Recreation space, greenery, and space for household activities. Open Space area may include, but shall not be limited to, lawns, landscaping and gardens, wooded areas, sidewalks and walkways, active and passive recreational areas, unenclosed accessory Structures used for recreational purposes, permanent

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<sup>444</sup> New definition.

or seasonal water surfaces, and protected natural areas. It shall not include areas covered by parking Lots, driveways, refuse facilities, or enclosed accessory Structures.

**Open Space, Active**

The portion of Open Space devoted to and suitable for Outdoor Recreation and household activities measuring at least 6 feet by 10 feet if intended for common or shared use by all households and at least 4 feet by 10 feet if intended for private or individual household use. Common or shared Active Open Space may include, but shall not be limited to, lawns, sidewalks and pathways, playgrounds, fields (baseball, soccer, etc.), courts (basketball, tennis, etc.), and swimming pools. Private or individual Active Open Space may include, but shall not be limited to, porches, decks, balconies, patios, and accessible portions of Roofs. Active Open Space shall not include woodlands, storm water management basins, wetlands, Natural Features Open Space, conflicting land use buffers, Vehicular Use Area interior landscape islands, or screening.

**Open Space, Required**

The portion of a Lot between the Required Setback Line and the Lot Line.

**Open Space, Permanent**

The portion of a Lot or Lots, exclusive of road rights-of-way, vehicle access and utility easements, and required storm water management, soil Erosion and sedimentation control facilities, that is restricted by a recorded conservation easement or similar binding instrument. Permanent Open Space shall be intended for, but shall not be limited to, the preservation and conservation of undeveloped natural resources, Natural Features, scenic or wooded conditions, or naturally occurring water surfaces. It may also include undeveloped greenways of contiguous or linear Open Space providing habitats or corridors for wildlife, or links between Parks, nature reserves, cultural features, or historic sites for passive recreation or conservation.

**Outdoor Display and Vending Machines<sup>445</sup>**

Display of General Merchandise sold by owner or operator of Principal Use and vending machines.

**Outdoor Recreation<sup>446</sup>**

Establishment providing Outdoor Recreational service, such as: miniature golf, golf driving ranges, commercial swimming pools, outdoor theaters and canoe liveries.

**Outdoor Sales, Seasonal<sup>447</sup>**

Temporary display and sales of merchandise sold by the owner or operator of Principal Use.

**Outdoor Sales, Temporary by Others<sup>448</sup>**

Temporary Outdoor Sales or display of goods and services normally sold in the zoning district by a party other than the owner or operator of the Principal Use.

**Outdoor Sales Permanent<sup>449</sup>**

Permanent Outdoor Sales or display of goods and services normally sold in the zoning district on the same Lot as the principal Building.

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<sup>445</sup> New definition.

<sup>446</sup> New definition.

<sup>447</sup> New definition.

<sup>448</sup> New definition.

<sup>449</sup> Modified definition. "Outdoor sales, permanent" merged with this use.

**Outdoor Storage<sup>450</sup>**

The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours. This shall not include the display of vehicles or equipment for sale in a sales lot.

**Parking Attendant Building<sup>451</sup>**

A shelter to house the on-site attendant of a parking Lot.

**Parking Lot or Structure Principal Use<sup>452</sup>**

A Structure specifically constructed for storage of personal vehicles, including private and community garages, or an area 1200 or more square feet and designed to accommodate more than four parked vehicles, in accordance with the requirements of Sec. 5.19 and allowed as the only or primary use on the Lot.

**Parking Space**

A private area designed or used for the parking of a motor vehicle and properly accessed from a public street by a Driveway or private street.

**Parks, Recreation, and Open Space<sup>453</sup>**

Land owned or leased by the City of Ann Arbor or other public agency for use as a neighborhood park, an urban park or plaza, a Recreation facility, a historic site, a community-wide park, and/or a natural area as described in the Parks and Recreation Open Space Plan.

**Partially Nude**

Having any or all of the following bodily parts exposed: buttocks, genitals, pubic area, or female breasts.

**Permanent Soil Erosion and Sedimentation Control Measures**

Control measures that are installed or constructed to control soil Erosion and sedimentation and that are maintained after Project Completion.

**PDSU**

The Ann Arbor Planning and Development Services Unit.<sup>454</sup>

**PDSU Manager**

The Manager of the PDSU.

**Personal Services<sup>455</sup>**

An establishment that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services. Examples include but are not limited to; catering establishments, custom dressmaking, film processing, licensed massage salons, optical and optician services, service and repair establishments, sun tan centers, bicycle rental, and small craft rental. This definition does not include laundry and dry-cleaning services.

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<sup>450</sup> New definition.

<sup>451</sup> New definition.

<sup>452</sup> New definition.

<sup>453</sup> New definition.

<sup>454</sup> This and the following are new definitions.

<sup>455</sup> New definition.

**Phase**

A portion of a larger development that contains independently adequate (1) pedestrian and vehicular access, (2) sanitary, water and storm water conveyance and management systems, and (3) required site improvements such as, but not limited to, landscaping, open space and parking and is specifically identified as a Phase on an approved plan.

**Pilot Manufacturing<sup>456</sup>**

The production of a product, process, or piece of equipment on a simulated factory basis, and limited to Pilot Manufacturing of engineering, Laboratory, scientific, electronic and research instruments and associated equipment.

**Pinball Parlor**

A pinball facility meeting all requirements of Chapter 87, section 7:327.

**Power and Fuel Rights-of-Way<sup>457</sup>**

All lines and facilities related to the provision, collection, distribution, and transmission of Power and Fuel Rights-of-Way.

**Premises**

The contiguous land in the same ownership or control that is not divided by a public street.

**Primary Caregiver<sup>458</sup>**

As used in the context of Marijuana, means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

**Principal Activity**

A use accounting for more than 20 percent of a business' stock in trade, display space, Floor space, live entertainment time or movie display time per year.

**Principal Use**

The primary use of any Lot.

**Prior Zoning and Development Regulations<sup>459</sup>**

The provisions of each of those chapters of the Code listed in section 5.9.1 as they existed immediately prior to the adoption of this Chapter.

**Professional Engineer**

A person licensed by the State of Michigan to engage in the practice of Professional Engineering as defined by Act 299 of the Public Acts of 1980 (as amended), being Section 2001 of the Michigan Compiled Laws of 1979.

**Project Completion<sup>460</sup>**

The point at which all permitted improvements for a project have been completed consistent with all permit approvals, as well as with any approved amendments or modifications, and for which all final inspections have been made and approved by the city.

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<sup>456</sup> New definition.

<sup>457</sup> New definition based on definition of "Transportation, communications, power, and fuel rights-of-way."

<sup>458</sup> New definition from Ord. 10-37.

<sup>459</sup> New definition required by the integration of the various regulations into this UDC.

<sup>460</sup> New definition.

**Public Right-of-Way or Right-of-Way<sup>461</sup>**

All public rights-of-way within the City that are used for streets, highways, sidewalks and alleys.

**Public Utility**

Private enterprise with a franchise for providing a public service.

**PUD Development Program**

A written document or portion of a document describing the objectives, purposes, and beneficial effect for the City proposed to be achieved by the PUD zoning district.

**Qualifying Patient<sup>462</sup>**

As used in the context of Marijuana, means a person who has been diagnosed by a physician as having a debilitating medical condition.

**Railroad and Public Transportation Rights-of-Way<sup>463</sup>**

A public or private right-of-way on which tracks for trains are constructed.

**Religious Assembly<sup>464</sup>**

A facility or area for people to gather together for public worship, religious training, or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other Structure, together with its accessory Structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory Uses may include religious education classes, meeting rooms, and childcare provided for persons while they are attending assembly functions.

**Research/Development<sup>465</sup>**

A Structure or complex of Structures designed or used for research Development intended to advance knowledge and develop technology related to academia or industry and similar fields of endeavor but not facilities for the manufacture or sale of products, except as incidental to the primary purpose of the Laboratory.

**Residential Builders, General Contractors Trade Contractors<sup>466</sup>**

Individuals or businesses offering services related to construction of Buildings and Development of land such as residential Trade Contractors and home builders, highway and street, heavy construction and general Buildings.

**Residential District<sup>467</sup>**

Those districts classified as residential in section 5.11.

**Residential Occupancy<sup>468</sup>**

The use of land or Buildings by a tenant(s) for overnight use.

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<sup>461</sup> Definition from previous sign regulations made generally applicable to the UDC.

<sup>462</sup> New definition from Ord. 10-37.

<sup>463</sup> New definition.

<sup>464</sup> A combination of the current definitions for “church” and “religious assembly,” as is common in most modern codes.

<sup>465</sup> New definition.

<sup>466</sup> New definition.

<sup>467</sup> A second, parallel definition of residential zone was not carried over.

<sup>468</sup> New definition.

**Restaurant, Bar, Food Service**<sup>469</sup>

An area or Structure in which the principal Business is the preparation and sale of foods and beverages to the customer in a ready-to-consume state. Operations may or may not include outdoor seating areas or outdoor Food Service, but the operation does not include a drive-through facility, or an establishment primarily devoted to the serving alcoholic beverages by the drink and in which the service of the food is only incidental to the consumption of such alcoholic beverages.

**Retail Center**

A group of predominantly commercial establishments managed as a total entity.

**Retail Sales, General Merchandise**<sup>470</sup>

A facility or area for the retail sale of General Merchandise or food to the general public for direct consumption and not for wholesale. Typical General Merchandise includes clothing and other apparel; equipment for hobbies or sports; gifts; flowers and household plants; auto parts without service, dry goods; groceries and convenience and specialty foods; toys; furniture; books and stationery; pets; drugs; hardware; and similar consumer goods. This use does not include uses in this Article specifically listed elsewhere.

**Roof**<sup>471</sup>

The cover of any Building, including the eaves and similar projections.

**Rooming House**

See Group Housing.

**Rules of the WCWRC**

The Rules of the Washtenaw County Water Resources Commissioner, Procedures and Design Criteria for Stormwater Management Systems, dated May 15, 2000.

**School, Private**<sup>472</sup>

A private institution intended for the purpose of elementary or secondary education, but also including dance schools, and art schools, but not trade schools, and which does not secure the major part of its funding from public sources.

**School, Public**<sup>473</sup>

A public institution intended for the purposes elementary or secondary education, including public school academies (commonly known as charter schools) and similar institutions as recognized by state regulations.

**Security**

For non-Warranty purposes, cash or certified check or money order made payable to the City of Ann Arbor. For Warranty purposes, surety bond, cash or certified check or money order made payable to the City of Ann Arbor.

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<sup>469</sup> New definition.

<sup>470</sup> New definition.

<sup>471</sup> New definition.

<sup>472</sup> New definition.

<sup>473</sup> New definition.

**Sediment**

Any solid particulate matter, mineral or organic, that has been deposited in water, is in suspension in water, is being transported, or has been moved from its site of origin by the process of soil Erosion.

**Setback, Established Front**

The minimum or maximum distance at which an existing Building is located from the street right-of-way line.

**Setback, Required**

The minimum or maximum distance specified by this Chapter that shall be provided between a Lot Line and a Structure.

**Setback Line, Established Front**

A line parallel to the street, extending from the point at which an existing Building is closest to the street right-of-way line outward to the Lot Lines.

**Setback Line, Required**

A line parallel to a property line representing the minimum Required Setback from that property line.

**Sign**

A name, identification, description, display, light, balloon, banner, or illustration that is affixed to, or painted, or otherwise located or set upon or in a Building, Structure or piece of land and that directs attention to an object, product, place, activity, person, institution, organization, or Business and that is visible from any public street, sidewalk, alley, park, public property, or an on-premise parking area that serves such entity. The definition includes Interior and Exterior Signs but not signs primarily directed at persons within the Premises of the sign owners. The definition does not include goods displayed in a Business window. The definition does not include religious symbols or paintings that do not display lettering and do not advertise a business, product or service.

**Sign Area (or other reference to square measure)**

The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing representation, emblem, or any figure of similar character together with any frame or other material or other color forming an integral part of the display or used to differentiate it from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Where a sign has 2 or more faces, the area of all faces shall be included in determining the area of the sign. Where a sign consists solely of lettering painted or mounted on a wall, any blank area which is more than 10 percent of the area of the sign as otherwise computed shall be disregarded.

**Sign, Exterior**

Any sign other than an Interior Sign.

**Sign, Interior**

A sign within the walls of a Building.

**Sign, Off-premises**

A sign other than an On-premises Sign.

**Sign, On-Premises**

A sign that advertises only goods, services, facilities, events, or attractions on the premises where located.

**Sign, Political**

A Sign whose message relates to a candidate for political office, or to a political party, or to a political issue, or an ideological opinion.

**Sign, Temporary**

A Sign intended for a limited period of display.

**Soil Erosion Control Facility**

A facility placed or constructed as necessary for the successful control or abatement of accelerated soil Erosion.

**Special Event Sales<sup>474</sup>**

A temporary outdoor use on private or public property that is approved in conjunction with a special event designated by City Council resolution and often subject to special conditions that address the duration and impacts of the special event. Examples include, but are not limited to, art fairs, home football games at the University of Michigan Stadium, sidewalk sales, festivals, and carnivals.

**Special Exception Use**

A use permitted in a particular zoning district if it conforms to specific standards outlined in this Chapter.

**Stabilization**

The establishment of vegetation or the proper placement, grading, or covering of soil to ensure its resistance to soil Erosion, sliding, or other earth movement.

**Steep Slope**

A naturally occurring landform with a vertical change in elevation of 10 feet or more, a slope of 20 percent or more, and a length of 50 feet or more measured parallel to the contour lines.

**Story**

That portion of a Building included between the surface of any Floor and the surface of the Floor next above it, or if there be no Floor above it, then the space between the Floor and the ceiling next above it and including those basements used for the Principal Use.

**Stockpiling**

The depositing of earth materials or rock for temporary periods of time for the purpose of facilitating construction operations.

**Storm Water Management System**

A system that is designed and constructed or implemented to control runoff, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overland flow, environmental degradation, and water pollution or otherwise affect the quality and quantity of the discharges. The Storm Water Management System includes but is not limited to, any of the following: conduits and appurtenance features, canals, channels,

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<sup>474</sup> New definition.



ditches, streams, culverts, streets, storm sewers, detention basins, infiltration devices, swales, and pumping stations.

**Storm Water Retention/Detention Basin**

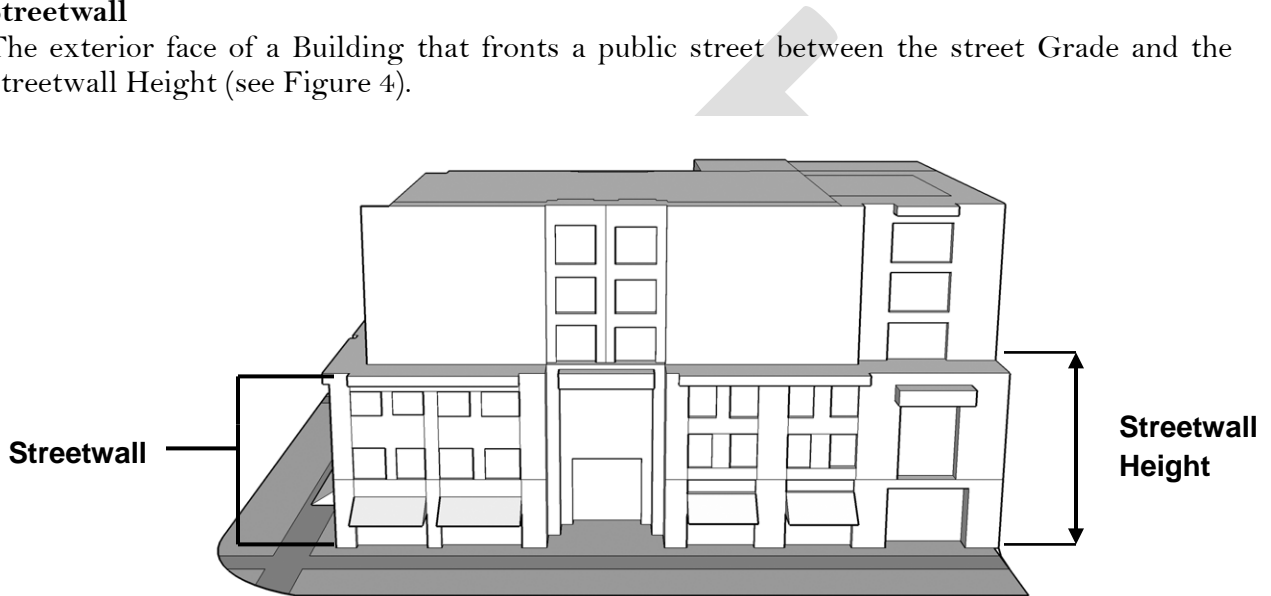
An artificial impoundment constructed in upland that serves to restrain or filter storm water runoff.

**Street Frontage**

The length of the property abutting 1 or more streets.

**Streetwall**

The exterior face of a Building that fronts a public street between the street Grade and the Streetwall Height (see Figure 4).



**Figure 4: Streetwall and Streetwall Height**

**Streetwall Height**

The height of the Streetwall portion of the Building, as measured in stories above the street Grade (see Figure 4).

**Stripping**

Any activity that removes or significantly disturbs the vegetative surface cover, including Clearing and Grubbing operations.

**Structural Amenity**

When used in the context of landscaping, a non-plant element in the landscape that adds to the public benefit of the proposed landscape plan, such as outdoor art, benches, sculptural solar lighting, water features, and similar items.<sup>475</sup>

**Structure**

A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

<sup>475</sup> New definition from Ord. 11-09.

### **Student Cooperative Housing**

A facility used for housing students who largely perform their own household maintenance and meal preparation and who have a vote in the operation, maintenance, and management of their household affairs. Such housing is registered with The University of Michigan.

### **Superintendent**

The Superintendent of the department of Parks and recreation.

### **Supplemental Regulations**

A written document that contains the zoning and site Development requirements that, once approved, become part of the ordinance establishing the PUD zoning district, and, in addition to current City regulations and ordinances, shall be in effect for the district.

### **Temporary Soil Erosion and Sedimentation Control Measures**

Interim control measures that are installed or constructed to control soil Erosion and sedimentation and that are not maintained after Project Completion.

### **Theatre, Enclosed<sup>476</sup>**

An indoor establishment for the production, display, or transmission of entertainment, such as radio and television studios, excluding transmission and receiving Towers, assembly halls, concert hall or similar places of assembly or entertainment.

### **Tower**

Any portion of the Building that rises above the base. Towers often include a lower Tower section and an upper Tower section (see Figure 1).

### **Transit Center, Station, or Depot**

A Building, facility, or area designed and used for persons using or changing transportation modes, or for the storage or parking of motor-driven buses.

### **Transportation Facilities<sup>477</sup>**

Municipal airports, rail stations, bus stations, bicycle centers, auto and bicycle parking facilities, and similar facilities.

### **Vehicular Use Area**

Any area of 1,200 square feet or more of a property that is not located within an enclosed Structure and that is devoted to a use by or for motor vehicles, including parking (accessory or non-accessory) or storage of automobiles, trucks or other vehicles, loading areas, service areas and drives. The area within a carport is considered part of the Vehicular Use Area. Any paved area designed to be used solely for access between the street and the Vehicular Use Area shall not be considered part of the Vehicular Use Area.<sup>478</sup>

### **Vehicle Wash<sup>479</sup>**

The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, and other light-duty equipment, only by automatic, coin-operated, or moving line wash facilities.

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<sup>476</sup> New definition.

<sup>477</sup> Added per Ord. 10-17.

<sup>478</sup> Includes revised language from Ord. 11-09.

<sup>479</sup> New definition.

**Veterinary, Kennels, and Animal Boarding<sup>480</sup>**

A facility for the diagnosis, treatment, or hospitalization of animals, and including the incidental boarding or breeding of animals or any facility, public or private, where domesticated animals are temporarily boarded, groomed, and sold for compensation. This use also includes public facilities for the temporary impoundment of animals, and facilities for the temporary boarding of animals during the day or overnight.

**Warehousing and Indoor Storage**

An establishment in an enclosed Building primarily engaged the storing raw materials, goods, or property, or in the sale or distribution of goods and materials in large quantity to retailers, or other businesses for resale or distribution to individual or business customers. <sup>481</sup>This shall not include Heavy Manufacturing, resource extraction, bulk storage of hazardous materials, or scrap or salvage operations.

**Warranty**

Promise that all defects in or failures of materials or installation that appear or are identified, including any damage resulting from the defects, shall be corrected at the expense of the promissor.

**Watercourse**

Any naturally occurring open waterway, river, stream, creek, lake, or any body of surface water having well-defined banks and bed, whether continually or intermittently flowing.

**Wetland**

Any land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support Wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

**Wetland and Watercourse Open Space**

The minimum Open Space adjacent to Wetlands and Watercourses, as provided under this Chapter.

**Wetland Use Permit**

The city approval required for activities regulated by this Chapter, issued by the Community Services Area Administrator.

**Wholesale, Resale, Building Material and Supplies<sup>482</sup>**

An establishment in an enclosed building primarily engaged in the sale or distribution of goods and materials in large quantity to retailers, or other Businesses for resale or distribution to individual or Business customers. This shall not include Heavy Manufacturing, resource extraction, bulk storage of hazardous materials, or scrap or salvage operations.

**Wireless Communications Antenna**

An antenna that is an Accessory Use or attached to a wireless communication facility and is designed to transmit or receive communications as authorized by the Federal Communications Commission, excluding ancillary antennas such as citizen band antennas, ham and amateur radios, fleet type communications, satellite dishes, and personal television receiving antennas.

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<sup>480</sup> New definition.

<sup>481</sup> New definition. In the ORL district, language also includes materials “produced or” used on the premises.

<sup>482</sup> New definition.

**Wireless Communications Facility**

Includes Wireless Communications Antennas or Towers and all unstaffed facilities related to the use of the radio frequency spectrum for the purposes of transmitting or receiving signals, usually consisting of an equipment shelter or cabinet, support Structure and/or other transmission and reception devices. This definition excludes ancillary antennas such as citizen band antennas, ham and amateur radios, fleet type communications, satellite dishes, and personal television receiving antennas.

**Wireless Communications Tower**

A Tower, including, but not limited to, self-supporting lattice, guyed, or monopole that elevates the Wireless Communications Antenna and related transmission or receiving equipment and may include accessory transmission or receiving equipment.

**Woodland**

A forested area of 1/2 acre or more with a gross basal area of 30 square feet per 1/2 acre, containing 20 trees per 1/2 acre greater than 6 inches in Diameter at Breast Height (DBH), or a plantation of 1/2 acre or more with a minimum average DBH of 10 inches. The Critical Root Zone of all trees in the perimeter of the forested area or plantation defines the area of a Woodland.

**Woody Plants**

Trees 2 inches or greater in diameter measured 4 feet above the existing grade, shrubs 2 inches or greater in diameter measured at the existing Grade (ground level), or trees and shrubs 10 feet or greater in height.

**Xeriscaping**

A combination of landscaping features and techniques that in aggregate reduce the demand for, and consumption of, water.