

Chapter 57 SUBDIVISION AND LAND USE CONTROL

5:119. Intent.

This chapter 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 be expected to have a significant impact on adjacent parcels and land uses, traffic patterns, natural features and the character of future development. It is further the intent of this chapter to provide for the preservation and management of significant natural features through city review, as well as to achieve harmonious relationships of buildings, structures and uses, both within a site and with adjacent sites; safe and convenient traffic movement, both within a site and in relationship to access streets; and appropriate public and private infrastructure.

(Ord. No. 31-97, § 1, 7-7-97)

5:120. Definitions.

In addition to the definitions below, the definitions of Chapter 55 (Zoning) and Chapter 60 (Wetlands Preservation) shall apply to this chapter and the land development regulations adopted pursuant to it.

- (1) *Archaeological resources.* Any material remains of past human life and activities which are of either historic or prehistoric archaeological interest.
- (2) *Critical root zone.* The circular area surrounding a tree which 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.
- (3) *Diameter at breast height (DBH).* The diameter of a tree measured 4 feet above the existing grade.
- (4) *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.
- (5) *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.
- (6) *Floodplain, 100-year.* An area which has 1% chance of flood occurrence in any given year.
- (7) *Invasive species.* Botanical species included on the city's invasive species list that is maintained and updated in the building department, as provided under Chapter 60.
- (8) *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% 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 does not include any tree identified as an invasive species on the city's invasive

species list.

(9) *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.

(10) *Natural features.* Any 1 or more of the following: endangered species habitat, 100-year floodplain, landmark tree, steep slope, watercourse, wetland and woodland.

(11) *Natural features open space.* The minimum open space adjacent to natural features, as provided under Chapter 55.

(12) *Phase.* A portion of a larger development that contains independently adequate (a) pedestrian and vehicular access, (b) sanitary, water and stormwater conveyance and management systems, and (c) 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.

(13) *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.

(14) *Steep slope.* A naturally occurring landform with a vertical change in elevation of 10 feet or more, a slope of 20% or more, and a length of 50 feet or more measured parallel to the contour lines.

(15) *Warranty.* Promise that all defects in or failures of materials or installation that appear or are identified, including any damage resulting from the defects, will be corrected at the expense of the promissor.

(16) *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.

(17) *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.

(Ord. No. 31-97, § 1, 7-7-97; Ord. No. 29-00, § 1, 6-5-00)

5:121. Area plans.

(1) *Necessity.* An area plan must be approved by the City Council prior to:

(a) The approval of any plat or site plan if the petitioner owns or controls contiguous land not included in the proposed plat or site plan, or

(b) 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.

Upon recommendation of the planning and development services manager or designee, 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.

(2) *Area plan procedure.* Before submitting an area plan for formal review, the petitioner shall meet with the planning and development services manager or designee to review the proposal

and applicable City requirements. To initiate a formal review, all drawings and other required materials, as specified in this Chapter and the Land Development Regulations, shall be filed with the planning and development services manager or designee. An area plan shall not be considered filed until all drawings and other required materials have been submitted. An area plan may be rejected if these materials are inadequate to make the foregoing determinations. The planning and development services manager or designee shall review the materials filed and, after conferring with the petitioner and appropriate City departments, shall submit a report and recommendation to the Planning Commission. The Planning Commission shall make a report and recommendation to the City Council within 60 days of the receipt of the report and recommendation from the planning and development services manager or designee. The City Council shall approve or reject the area plan within 30 days of the approval of the Planning Commission. If approval by the City Council is conditioned on changes to the plan, the petitioner must submit revised drawings with the necessary changes to the Planning and Development Services Manager or designee within 30 days of approval by City Council or the area plan approval shall lapse.

(3) *Standards for area plan approval.* An area plan shall be approved by the City Council after it determines that:

- (a) The contemplated development would comply with all applicable State, local or federal laws, ordinances, standards and regulations; and
- (b) The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; and
- (c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare; and
- (d) If the area plan requires an amendment to the zoning map, the proposed uses or other uses permitted under the proposed zoning would be compatible with the City's adopted plans and policies.

(4) *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, for a period of three years, be applicable to a plat or site plan consistent with the approved area plan unless amended ordinances or regulations are specifically made applicable to approved area plans.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 63-92 § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 43-04, § 22, 1-3-05)

5:122. Site plans.

(1) *Necessity.* An approved site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any natural features, except for:

- (a) Construction of or addition to 1 single- or two-family dwelling or accessory structure on a parcel zoned solely for residential purposes.
- (b) Removal or disturbance of any natural features on a lot which contains 1 single-family or two-family dwelling and is zoned solely for residential purposes.
- (c) Construction solely on the interior of a building that does not increase usable floor area.
- (d) Construction, 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.

(2) *Site plan procedure.* Before submitting a site plan for formal review, the petitioner shall meet with the Planning and Development Services Manager or designee to review the proposal and applicable City requirements. To initiate a formal review, all drawings and other required materials, as specified in this Chapter and the Land Development Regulations, shall be filed with the Planning and Development Services Manager or designee. A site plan shall not be considered filed until all drawings and other required materials have been submitted. A site plan may be rejected if these materials are inadequate to make the foregoing determinations. The Planning and Development Services Manager or designee shall review the plan with other appropriate City departments and the petitioner and, except in the case of an administrative amendment to an approved site plan, shall make a report and recommendation on the proposed plan to the Planning Commission.

(3) *Site plans for City Council approval.* Except as otherwise provided in this section, City Council shall review and approve or reject a site plan after receiving a report and recommendation from the Planning Commission. The Planning Commission shall submit its report and recommendation to the City Council within 60 days of receiving a report and recommendation from the Planning and Development Services Manager or designee. The City Council shall approve or reject the site plan within 30 days of the recommendation by the Planning Commission. If approval is conditioned on changes to the site plan, the petitioner shall submit revised drawings with the necessary changes to the Planning and Development Services Manager or designee within 30 days of approval by the City Council or the site plan approval shall lapse. Any changes to a condition placed on the site plan by City Council shall require City Council approval.

(4) *Site plans for Planning Commission approval.* The Planning Commission shall review and approve or reject a site plan that proposes 1 or more of the following minor modifications only. If a site plan proposes any modification that would require City Council approval in addition to any of the following minor modifications, then the site plan, including the minor modifications, shall be considered in the manner provided for site plans for City Council approval.

(a) Garages; carports; freestanding automatic teller machines; outdoor storage; freestanding storage buildings greater than 5,000 square feet in floor area or in excess of 5% of the lot area or taller than 14 feet in height; more than 1 dish antenna on a parcel; windmills not located on a building; wireless communications towers; and cooling, heating or mechanical equipment occupying a ground area greater than 100 square feet.

(b) An addition to an existing building, if the addition does not exceed 10% of the existing floor area or 10,000 square feet, whichever is less.

(c) Paving or expanding an existing parking lot, or construction of a new access road or driveway.

(d) Modifications to an approved natural features protection plan or natural features mitigation plan that are not covered under the administrative amendment requirements.

(e) Where no approved site plan exists on file with the planning and development services unit, a minor change allowed by the administrative amendment requirements.

(5) *Administrative amendments to approved site plans.* A minor change to an approved site plan may be approved by the Planning and Development Services Manager or designee if the Community Services Area Administrator, Public Services Area Administrator, and Fire Chief

verify in writing that the change will not significantly alter natural features shown to be preserved nor alter or conflict with the stated conditions of site plan approval. The Planning and Development Services Manager or designee shall provide regular reports to the Planning Commission of administrative amendments acted upon by the planning and development services unit. A minor change is 1 or more of the following:

- (a) Change to or addition of development phasing lines.
 - (b) Change in building height that does not create new floor area.
 - (c) Relocation of sidewalks.
 - (d) Change of location or type of landscape or screening materials. Where more landscaping area or materials are shown than required by Chapter 62, these elements may be reduced by no more than 20% of the additional amount originally approved.
 - (e) Relocation of refuse collection stations.
 - (f) Internal rearrangement of parking lot.
 - (g) Decrease in building size.
 - (h) Moving a building no more than 10 feet or 5% of the distance to the closest property line, whichever is smaller.
 - (i) An increase in building size that does not exceed 10,000 square feet or 10% of the floor area, whichever is smaller.
 - (j) Extension of site plan approval for periods up to 2 years if the plan is in compliance with current laws and regulations.
 - (k) Relocation or addition of no more than 50% of the approved storm water detention capacity.
 - (l) Change in species or placement of plant material included in an approved mitigation plan, as long as the change does not result in a reduction of plant material or area from the original plan and the change meets the intent of the approved mitigation plan.
 - (m) Substitution of areas to be preserved in an approved natural features protection plan, as long as there is no net loss of preserved area, the cumulative area to be changed does not exceed 250 square feet of the original area to be preserved in the approved protection plan, and the substitution is consistent with the Review Criteria for Natural Features Statement of Impact.
 - (n) Removal of a tree identified on the site plan as a landmark tree to be saved, but recognized as an invasive species at the time of approval of the administrative amendment.
 - (o) Addition of 1 freestanding storage building greater than 240 square feet of floor area, but not to exceed 5,000 square feet of floor area, 5% of the lot area, and 14 feet in height.
 - (p) Addition of carports over existing legal parking spaces.
 - (q) Replacement or enhancement of a wireless communications tower to accommodate co-location, provided that the tower is not relocated more than 15 feet from the base of the original tower, nor is increased in height more than 20 feet above the original tower height and meets all other applicable regulations.
 - (r) Canopy structures over vehicular use areas.
- (6) *Standards for site plan approval.* A site plan shall be approved by the appropriate body after it determines that:

- (a) The contemplated development would comply with all applicable State, local and federal law, ordinances, standards and regulations; and
- (b) The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and
- (c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.

(7) *Effect of approval of site plan.* For 3 years from the date of approval of a site plan, permits may be issued and the land developed consistent with that plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances are made applicable to previously approved developments. After 3 years from approval, no permits shall be issued unless the site plan is reconsidered in the manner provided for new site plans.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 55-86, § 1, 11-3-86; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 45-98, § 1, 11-16-98; Ord. No. 40-00, § 3, 9-18-00; Ord. No. 43-04, § 22, 1-3-05; Ord. No. 2-06, § 1, 2-21-06; Ord. No. 08-32, § 3, 10-6-08; Ord. No. 09-13, § 2, 6-1-09)

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

(1) *Necessity.* An approved PUD site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any natural feature for all planned unit developments.

(2) *Applicability.* The requirements of this section are specifically made applicable to:

- (a) PUD zoning districts approved on or after February 3, 1999;
- (b) PUD zoning districts, previously known as preliminary phase PUD zoning districts, approved before February 3, 1999, for which PUD site plan approval, previously known as final phase approval, has not been granted or for which an amendment to an approved final phase PUD site plan is sought;
- (c) PUD site plans, previously known as final phase PUD site plans, for which approval was granted on or before February 3, 1996, and further permits are sought.

(3) *Procedure for PUD Site Plan Review.*

(a) (i) The petitioner for PUD site plan approval shall file with the Planning and Development Services Manager or designee all drawings and other materials required for site plans in this Chapter and the Land Development Regulations; all drawings and other materials required in Chapter 55 for PUD zoning district approval; and the additional information listed below. A PUD site plan application shall not be considered filed until all drawings and other required materials have been submitted and may be rejected if the materials submitted are inadequate to make the foregoing determinations.

(ii) If requested by the Commission or City Council, additional graphics, models, 3-dimensional or electronic, or written materials shall be submitted to assist the City in visualizing and understanding the proposal. Additional detailed information, including but not limited to plans, elevations, building and site sections, or existing and proposed building materials, if submitted, shall become a part of the PUD site plan.

(b) The Planning and Development Services Manager or designee will distribute these materials to the appropriate City departments and other reviewing agencies for review and comment regarding compliance with the PUD zoning district supplemental

regulations and conceptual PUD plan, and compliance with all applicable local, State, or federal laws, ordinances, standards and regulations and to determine the need for a development agreement as provided in this chapter. The Planning and Development Services Manager or designee will notify the petitioner of any questions raised by the City departments and other reviewing agencies and negotiate a development agreement with the petitioner if it is determined that such an agreement is needed. The Planning and Development Services Manager or designee shall submit a report and recommendation to the Commission based on this review.

(c) The Commission, after holding a public hearing on the PUD site plan with notification as required by this Chapter, shall transmit its recommendation based on the standards below, together with any recommended conditions of approval and all related reports and minutes to City Council.

(4) *Standards for PUD Site Plan Review.* City Council, after holding a public hearing on the PUD site plan with notification as required by this Chapter, and after receiving all related reports and minutes and a recommendation from the Commission, shall approve, approve with conditions, or deny a PUD site plan. A PUD site plan shall be approved by City Council only after it determines that:

(a) The development would comply with the PUD zoning established pursuant to the requirements of Chapter 55, and with all applicable local, State, or federal laws, ordinances, standards and regulations; and

(b) The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and

(c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.

(5) *Effect of PUD Site Plan Approval.* For 3 years from the date of approval of a PUD site plan, permits may be issued and the land developed consistent with the PUD site plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances have been made applicable to previously approved developments. After 3 years from PUD site plan approval, no permits shall be issued unless the PUD site plan is reconsidered in the manner provided for new PUD site plans and is determined to meet the standards of the PUD zoning district or has been extended as provided under Administrative Amendments to Approved PUD Site Plans.

(6) *Administrative Amendments to Approved PUD Site Plans.* A minor change to an approved PUD site plan may be approved as provided in this Chapter for Administrative Amendments to Approved Site Plans, except that the proposed changes shall not alter the fundamental design, conceptual integrity, natural features shown to be preserved, any specific conditions of the PUD development program, the conceptual PUD plan or the supplemental regulations. The following restrictions shall also apply:

(a) Adjustment in approved phase lines shall not result in a change greater than 10 percent of the total gross land area in any phase, or 10 percent of the number of approved lots, or 10 percent of the approved maximum building square footage.

(b) Any decrease in building size or changes in bedroom counts per dwelling unit shall not reduce the size or number of affordable housing units approved as part of the PUD site plan.

(Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 43-04, § 22, 1-3-05)

5:124. Plats.

(1) *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 and the Land Development Regulations.

(2) *Plat procedures.* Drawings and other required materials, as specified in this Chapter and the Land Development Regulations, shall be filed with the Planning and Development Services Manager or designee. The Planning and Development Services Manager or designee shall review the materials filed and, after conferring with the petitioner 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 within 60 days of its complete filing. The Planning Commission shall 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.

(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. 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. 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.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 43-04, § 22, 1-3-05)

5:125. Land divisions.

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).

(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 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 5:124 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 petition, which includes plans and other required materials as specified in this chapter and land development regulations, shall be submitted to the Planning and Development Services Manager or designee. The petition shall be considered complete and accepted for review, if it contains all required information to ascertain whether the standards found in this section have been met. If the Planning and Development Services Manager or designee determines that the petition is incomplete, it shall be returned to the petitioner for completion and re-filing of the petition.

(b) The land division petition shall be reviewed by the assessor services unit, planning and development services unit, fire services unit, and public services area, and comments from each reviewing unit shall be forwarded to the Planning and Development Services Manager or designee.

(c) Within 45 days of the complete filing of a land division petition, the Planning and Development Services Manager or designee shall provide written notice to the petitioner 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 petition 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 Planning and Development Services Manager or designee. The notice shall indicate where and when the land division petition may be examined, that said owner or resident may submit comments in person or in writing to the Planning Commission, and that said owner or resident may file comments with the Planning and Development Services Manager or designee prior to the end of the review period.

(e) The Planning Commission shall hear appeals of land division decisions of the Planning and Development Services Manager or designee. The petitioner may appeal the decision of the Planning and Development Services Manager or designee, within 30 days of said decision, to the Planning Commission. The appeal petition shall be submitted in writing to the Planning and Development Services Manager or designee and shall include the reasons for the appeal. The fee to submit an appeal shall be established by resolution of the City Council upon recommendation of the City Administrator. A written notice shall be sent to the petitioner 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. A notice of the hearing shall be published in a newspaper of general circulation at least 7 days before the hearing. The Planning Commission shall hold its hearing at its first regular meeting for which these notice requirements may be met. 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 nor parcels that would not be permitted under the State Land Division Act.

(f) The City Assessor shall maintain official records of all approved land divisions.

(3) *Standards for Land Division Approval.* The planning and development services manager or designee shall grant approval of a land division only after he or she determines that the land division meets all of the following standards:

(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 Chapter 55.

(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 Chapter 55.

(e) Each resulting parcel is accessible by meeting at least 1 of the following requirements:

1. 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.

2. 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) *Consequences of Noncompliance with Land Division Approval Requirement.* A land division in violation of any provision of this ordinance 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.

(5) *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 and the land development regulations.

(6) *Administrative Land Transfers.* The City Assessor and the planning and development services manager or designee 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 ordinance or Chapter 55. The petitioner shall provide to the planning and development services manager the required materials as specified for land divisions in this chapter and the land development regulations.

(7) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 51-88, § 1, 11-21-88; Ord. No. 43-89, § 3, 8-21-89; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 29-94, 1, 3-7-94; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 24-04, § 1, 8-16-04)

5:126. Natural features statement of impact.

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) As specified in the land development regulations, a 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 which 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.

(Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99)

5:127. Mitigation of natural features.

(1) When a site plan, a PUD site plan, or plat proposes that natural features be removed or disturbed, the following mitigation measures shall be shown on the site plan, the PUD site plan, or plat:

(a) *Wetlands*: Wetland mitigation shall be provided as required by Chapter 60.

(b) *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.

(c) *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.

(d) *Landmark trees and woodlands*:

(i) 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.

(ii) A replacement tree or a combination of trees of a species native to Michigan shall be provided to 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 chapter.

(e) *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.

(f) *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.

(g) *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.

(2) The mitigation measures shown on the site plan or plat shall include:

(a) A written description of the mitigation program.

(b) Replacement calculations.

(c) Planting plan, showing the location of trees, shrubs and ground cover.

(d) Plant list, including botanical and common names, caliper sizes, root type, and

height.

(e) Timing schedule for the implementation of the mitigation measures.

(3) 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.

(4) 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:

(a) The alternative mitigation is consistent with the Guidelines for the Protection and Mitigation of Natural Features, Attachment A of the land development regulations.

(b) The alternative mitigation is specifically approved by the planning commission or city council, depending on which is the approving body.

(c) The alternative mitigation provides an overall ecological value to the site or the city that is at least as beneficial as the required mitigation.

(d) The alternative mitigation meets 1 of the following standards:

(i) It is a restoration or management of an important natural feature on the site or public land in the vicinity.

(ii) It provides funds for the management and restoration of important natural features or public lands in the vicinity.

(iii) It dedicates important natural areas to the city park system.

(iv) It provides funds to the city street tree planting program.

(5) Where providing mitigation or alternative mitigation will cause undue hardship, the petitioner may request relief from the approving body as part of the site plan or plat approval. Any such 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 petitioner provides evidence supporting all of the following finding:

(a) The hardship is exceptional and peculiar to the property and results from conditions which do not exist generally throughout the city.

(b) The condition upon which the requested relief is based is not a self-imposed hardship.

(c) The relief proposed is the minimum amount necessary to make a reasonable use of the land.

(Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99)

5:128. Natural features protection.

(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 as required by Chapter 60.

(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 Department Standard Specifications.

(2) 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. If the site plan, PUD site plan, or plat has been complied with, replacement shall be at the lesser rate. If the site plan, PUD site plan, or plat has not been complied with, replacement shall be at the greater rate.

(Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 43-04, § 22, 1-3-05)

5:129. Review criteria for natural features statement of impact.

In determining whether the proposed disturbance or removal of natural features is limited to the minimum necessary to allow a reasonable use of the land, the approving body shall apply the following criteria, using the Guidelines for the Protection and Mitigation of Natural Features, Attachment A of the land development regulations:

- (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 Chapter 55 (Zoning).
- (5) The adequacy of the mitigation plan.

(Ord. No. 31-97, § 1, 7-7-97)

5:130. Time limits.

The planning commission will be considered to have recommended the approval of a site plan covered by this chapter unless it acts within the specified time limits. The City Council shall be deemed

to have approved a site plan covered by this chapter unless it acts within the specified time limits. However, for good cause, the planning commission and the City Council may, by affirmative vote, extend time limits for periods not to exceed 30 days each.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 24-04, § 1, 8-16-04)

5:131. Fees.

An area plan, site plan, PUD site plan, plat or land division shall not be considered to have been filed with the City until all required materials are submitted and applicable fees are paid as established by resolution of the City Council upon the recommendation of the City Administrator.

(1) Reimbursements.

(a) When a petition is withdrawn, by written request, before publication of the notice of public hearing by the City Planning Commission, the community services area administrator or designee shall reimburse the petitioner the entire filing fee.

(b) If a petition is withdrawn, by written request, before publication of the notice of public hearing by the City Council, the community services area administrator or designee shall reimburse the petitioner 1/2 of the required filing fee.

(c) If the petitioner requests a Planning Commission rehearing after Commission action, the petitioner shall pay one-half of the original filing fee.

(d) If the petitioner requests a rehearing by Planning Commission or City Council after City Council action, the petitioner shall pay the entire original filing fee.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 55-88, § 3, 1-9-89; Ord. No. 39-89, § 1, 6-19-89; Ord. No. 43-90, § 3, 8-20-90; Ord. No. 58-92D, § 1, 9-21-92; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 43-04, § 22, 1-3-05)

5:132. Required approvals and compliance.

(1) No person shall construct, install or place any building or site improvement or remove or disturb any natural features for which site plan or 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.

(2) An approved site plan or PUD 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 or PUD site plan and any development agreement, including, but not limited to, the measures for protection and mitigation of natural features.

(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 improvements in compliance with an approved site plan, plat or land division. All public improvements must meet current City of Ann Arbor Public Services Department 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 Department.

(4) 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.

(5) 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.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 69-91, § 1, 12-16-91; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 29-00, § 1, 6-5-00)

5:133. Development agreements.

Approval of a final preliminary plat or site condominium land division shall be conditioned upon the execution of a development agreement which secures the completion of all public and private improvements shown on the approved plat or land division. 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 which assures the affordability and availability of such housing. 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.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 69-91, § 1, 12-16-91; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 29-00, § 1, 6-5-00)

5:134. Security for completion of improvements.

(1) 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 planning and development services manager or designee for a period of up to six months provided (a) all public utilities necessary to serve the building have been constructed, passed initial acceptance testing and been maintained in a clean, operable condition and (b) 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.

(2) 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.

(a) 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.

- (b) All other private site improvements within the applicable phase, such as, 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.
 - (c) All public utilities which 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.
 - (d) All easements for public facilities or improvements which serve or benefit the phase must have been granted, accepted and recorded.
 - (e) 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.
 - (f) 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.
 - (g) All applicable provisions or obligations of the Owner in a site development agreement have been completed and fulfilled.
- (3) 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.
- (4) Where security is posted to secure any obligation of the owner in this Chapter, the following requirements apply:
- (a) The amount of security required shall be the estimated costs to the City, as determined by the Planning and Development Services Manager or designee, 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. The administrative fee shall be established by City Council upon recommendation of the City Administrator.
 - (b) The security shall be accompanied by a letter acceptable to the City Attorney from the property owner or owner's designee indicating that the secured activities will be completed or satisfactorily performed by the deadline established by the Planning and Development Services Manager or designee. 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 letter 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 which 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.

(c) 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.

(d) 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 of the City Code. 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, for which there is not a written request to return the balance, shall be forfeited to the City for the City's unrestricted use.

(5) If improvements have not been completed by the stated date, the Planning and Development Services Manager or designee 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.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 69-91, § 1, 12-16-91; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 29-00, § 1, 6-5-00; Ord. No. 43-04, § 22, 1-3-05)

5:135. Public information and hearings.

(1) Prior to Planning Commission recommendation and City Council final action of any area plan, site plan, PUD site plan, land division, or tentative or final preliminary plat, each body shall hold a public hearing. Prior to its final action on a site plan for Planning Commission approval, the Planning Commission shall hold a public hearing. Provided, however, whenever a wetland use permit is required by Chapter 60 in addition to the approval required under this Chapter, the public hearing or hearings required in this subsection shall be held concurrently with the public hearing or hearings required by Chapter 60.

(2) Area plans, site plans, site plans for Planning Commission approval, PUD site plans, preliminary plats and land divisions under review shall be displayed in a location in City Hall open to the public 24 hours per day, 7 days each week, for at least 1 week prior to the City Council and Planning Commission public hearings.

(3) Notice of all public hearings shall be published in a local daily newspaper of general

circulation at least 1 week prior to the public hearing.

(4) Prior to the Planning Commission's public hearing, the Planning and Development Services Unit shall mail a notice letter to the person being assessed for the property which is subject of any area plan, site plan, land division, or preliminary plat; all persons being assessed for property within 300 feet; neighborhood associations duly registered with the Planning and Development Services Unit which represent owners of property within 300 feet; and insofar as is possible, all occupants within 300 feet. The notice shall describe the requested approval; identify the property; state the date, time, and place of the Planning Commission's public hearing; and be mailed not earlier than 15 days before or less than 1 week before the Planning Commission's public hearing. A second public hearing will be held in the same manner if either:

(a) Final action by the Planning Commission is delayed more than six months after the initial public hearing; or

(b) In the judgment of Planning and Development Services Unit Staff, the project plan has been substantially revised.

(5) A notice shall be posted by the Planning and Development Services Unit on the affected property prior to the Planning Commission's public hearing stating that Planning Commission action is scheduled for any area plan, site plan, site plan for Planning Commission approval, PUD site plan, land division, or preliminary plat. This notice shall include information provided in the mailed notice. It shall be placed in a conspicuous location within 10 feet of the front lot line of the affected property at least 1 week prior to the date the request is being acted upon by the Planning Commission.

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 45-88, § 1, 10-3-88; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 55-94, § 1, 11-7-94; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99; Ord. No. 37-01, § 1, 9-20-01; Ord. No. 43-04, § 22, 1-3-05)

5:136. Conflict with Code.

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

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99)

5:137. Regulations.

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

(Ord. No. 78-70, 5-1-72; Ord. No. 10-83, 4-18-83; Ord. No. 63-92, § 1, 10-5-92; Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99)

5:138. Penalties.

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

(Ord. No. 31-97, § 1, 7-7-97; Ord. No. 49-98, § 5, 1-19-99)

5:139, 5:140. Reserved.