

Memorandum



Date: August 4, 2026

To: Planning Commission Members

From: Kristen Gundersen, Planning and Community Development Director

Subject: **Discussion #6- Unified Development Code – New Section 71-28 Fencing, Lighting, Screening and Landscaping Standards**

Background

The Planning Commission previously completed its review of the draft changes associated with Sections 71-26 Buffering, 71-28 Tree preservation and landscape standards, and 71-29 Fencing standards. In preparation of a public hearing on the proposed changes at the September 8th meeting, staff have compiled the draft language into Section 71-28 Fencing, Lighting, Screening and Landscaping Standards to allow for one last review prior to the public hearing. Please note that work needs to be completed on proper formatting as part of the application submittal.

While compiling the information minor issues were found that require additional review.

1. Fencing. While reviewing fence permits over the past 7 months, there have been two proposed fence requests for the use of chain-link. The regulations adopted in December 2025 prohibited the use of chain-link and the draft document reviewed in April allowed vinyl-coated chain-link in the side and rear yards.

Staff would like the Planning Commission to further discuss the use of vinyl-coated chain-link as staff have not seen this type of fencing used in the city. The attached draft document has the wording “vinyl coated” called out in bold and underline.

Staff made no changes to the chart which includes Fence Height Maximums, however, would request that Commissioners review the draft language again before public hearing.

2. Screening. Language was added regarding screening of loading areas.

3. Landscaping and Buffering. Staff worked with the Tree Friends Board regarding an improved list of species which is included in the draft document.

Next Steps

Review the draft document and concerns called out above. Direct staff to make changes as needed and to schedule for public hearing to take place at the September 8th meeting.

Final draft of new Section 71-28 which combines Sections 71-26, 71-28, 71-29 and expands language while incorporating additional new regulations. Final formatting is still needed. New language is shaded and areas of discussion are underlined/bolded. Changes in Section 71-36 are still called out as shaded.

Section 71-28 Fencing, Lighting, Landscaping and Screening Standards

A. Intent and Purpose

The intent and purpose of this section is to provide regulations and requirements for fencing, lighting, landscape and screening of certain uses and perimeters while protecting the character of surrounding areas, enhancing the visual environment, lessening the impact of differing intensity and use of adjacent properties, securing property, providing safety for individuals, stabilizing soils, controlling blowing dust and debris, preventing the glaring of lighting on adjacent properties, reducing stormwater runoff, and reducing noise.

B. Fencing and wall standards

1. These standards shall apply to fences as an accessory structure in all zoning districts.
 - a. Permits Required. Construction of a fence shall require issuance of a permit issued by the City, prior to construction or installation of any fence.
 - b. Measurement of Fence Height. Fence height is measured from the grade below the fence, to the top of the fence. Anchor posts may be up to 6 inches above the fence. There will be an additional tolerance of not more than 3 inches due to grade changes along the fence.
 - c. Setbacks. All portions of the fencing including support posts must be installed on the parcel and cannot extend over the lot line. It is the responsibility of the property owner to determine the location of the lot lines.
 - d. Clear Sight Lines. All fencing shall comply with the Clear sight lines regulations found in Section 71-16G.
 - e. Gates. Shall not swing over public rights-of-way or onto an adjacent property.
 - f. Pools. Fences that serve as enclosure for a swimming pool shall meet the permit requirements and standards of the State of Michigan Building Code.
 - g. Placement in recorded easements. Fencing may be approved within recorded easements, however, those with easement rights may need to remove the fence.
2. Fence design, types, materials and maintenance. These standards shall apply to a fences in all zoning districts.
 - a. Finished Side Out. All fences shall be constructed to present a finished outside fence appearance to adjacent property and public rights-of-way by either:
 - ii.. Symmetrical construction having identical inside and outside appearance, including anchor posts and frame members.
 - ii. Offset construction with anchor posts and horizontal and vertical frame members visible on inside face only and horizontal and vertical members or materials mounted on outside surface of frame and anchor post members.
 - b. Fence Types.
 - i. Open Fence. An open fence is more than 50% open when viewed from an angle perpendicular to the fence. Examples of open fences include split rail, **vinyl coated** chain link, picket, metal open

fences.

- ii. Solid Fence. A solid fence is 50% or less open when viewed from an angle perpendicular to the fence. The fence may also provide sound blocking. Examples of solid fences include vinyl privacy fencing, brick walls, wood stockade fencing and board on board fencing.
- c. Public Recreational Use Fence. An open fence is used to keep recreational equipment within a confined area. Typically installed around the perimeter of tennis or pickleball courts or baseball fields or basketball courts.
- d. Protective Measure Fence. A protective measure fence is used to protect utility and public service installations, other uses or facilities as determined necessary. The zoning administrator, city manager and police or fire chief will determine if the property requires a protective measure fence.
 - i. An exception to increase the maximum allowable height of a fence maybe granted not to exceed 12' in height.
 - ii. A protective measures fence may incorporate barbed wire, concertina wire, razor wire or electrically charged fencing or incorporate jagged or sharp materials, so long as these materials are at least 8' above grade.
 - iii. A protective measures fence shall be placed to protect only the authorized facilities and a reasonable adjacent area that is necessary to provide access to the authorized facilities or that is impractical to separate from the authorized facilities. The specific location and design of the protective measure fence shall be subject to approval by the zoning administrator, city manager, police and fire chief.

3. Materials.

- a. Fences shall be constructed of pressure-treated wood, wrought iron, brick, masonry, high-quality vinyl, **vinyl coated** chain link or other materials designed for permanent outdoor fencing.
- b. Wood fences shall be constructed of cedar, redwood, or other decay-resistant wood.
- c. Alternative materials such as scrap or "recycled" materials such as recycled doors, sheet metal, corrugated metal, wood pallets, siding, filing cabinets, tires, plywood, and similar materials must be reviewed and approved by the Zoning Board of Appeals in accordance with Section prior to any permit being issued.
- d. Prohibited materials. The following materials are prohibited barbed wire, concertina wire, razor wire or electrically charged fencing. The use of slats in chain link or the use of chicken wire, fabric, tarps and materials not traditionally used for fencing is prohibited.

4. Maintenance.

- a. Fences shall be maintained in good repair and safe condition.
- b. Peeling, flaking, and chipped coating shall be eliminated and surfaces shall be recoated.
- c. Damaged boards or panels shall be replaced.
- d. Nonconforming fencing may not be replaced.

4. Fence Height Maximums

	N, NE, GN, NC – One and Two- Family Residential Uses	N, NE, GN, NC – Three- Family or more Residential Uses or Non-Residential Uses	D	SC	I
Front Yard	4' – open excluding chain- link 3' - solid	4' – open excluding chain-link 3' - solid	N/A	4' – open excluding chain link	4' – open or solid excluding chain link
Secondary Front Yard – Behind front face of building	6'	6'	6'	6'	6'
Side Yard – Behind front face of building	6'	6'	6'	6'	6'
Rear Yard	6'	6'	6'	6'	6'
Public Recreational Use Fencing	6'	12'	N/A	N/A	12'

C. Lighting standards

1. The standards shall apply to all exterior lighting found in any zoning district.
2. Exceptions. The following types of outdoor lighting shall not be subject to this Ordinance; however, no lighting shall cause a disturbance on private property.
 - a. Residential decorative lighting such as porch, low level lawn lights, and seasonal lights.
 - b. Ground lights that illuminate flags and lights that are incorporated as architectural accent features shall be placed so that lighting or glare is not directed toward streets or adjacent properties, and fixtures shall be located, aimed, or shielded to minimize light spilling into the night sky.
 - c. Internally and externally illuminated signage as regulated in Section 71-30 of this Ordinance.
 - d. Lighting necessary for road work, utility work or emergency work.
 - e. Lighting for a permitted temporary event such as carnival, fair or city approved event.
 - f. Motion sensitive security lighting.
 - g. Fossil fuel light. Fossil fuel light produced directly or indirectly from the combustion of natural gas or other utility-type fossil fuels (i.e., gas lamps) is exempt from the provisions of this section.
 - h. Streetlights located within the public right-of-way.
3. Lighting Plan and manufacturer lighting details. A lighting plan with manufacturer lighting information is required if exterior lighting is required. The plan will include placement of lighting equipment and foot-candle readings along lot lines and location of highest foot-candle readings.
4. Lighting requirements.
 - a. Maximum height

-
- i. Light Pole Height. The maximum height of light pole shall be 20' as measured from the ground to the top of the pole or light fixture, except for approved outdoor recreation area lighting associated with ballfields, tennis courts or stadiums.
 - ii. Wall Mounted Light Height. A wall mounted light shall not extend above the wall or be located on a roof.
 - iii. Lighting under a canopy shall be fully recessed
 - b. Maximum light levels. The maximum light level at any lot line shall be 0.5 foot-candles. The maximum light level anywhere else on the property is 15 foot-candles. Buildings located in the D Downtown District and built at the lot line are exempt from the foot-candle levels.
 - c. Shielding. All exterior light shall be shielded, hooded and or louvered to provide a glare free area from all lot lines. 100% of the light shall be cut off above the horizontal plane at the lowest part of the light source.
 - d. Design. All exterior lighting shall be downward facing to reduce glare and arranged to direct and deflect light away from adjacent properties.
 - e. Ground lighting. Ground lighting shall not produce glare on adjacent properties.
 - f. Maintenance. Light fixtures shall be maintained in good working order. Bulbs and fixtures shall be promptly replaced as needed as not to become a hazard or nuisance.

D. Screening standards

- 1. These standards apply to all uses and zoning districts where mechanical equipment, outdoor storage and refuse containers are found on the exterior of the building.
- 2. Exceptions to screening requirements. One and two-family dwellings are excluded from the screening requirements following.
- 3. Mechanical equipment. Screening is required at time of installation of new or the replacement of existing mechanical equipment.
 - a. Rooftop mechanical equipment. All rooftop mechanical equipment shall be screened from ground-level view at the property line with the use of a concealing roof line, a parapet, a screening wall, or grillwork constructed of the same building material as the building directly surrounding the equipment, other alternatives may be approved by both the zoning administrator and city manager. All mechanical equipment shall be sufficiently setback from the façade edge to be concealed from street-level view or where roofs are visible from abutting and adjacent properties shall be covered. Any screening material shall be no taller than necessary to achieve the required screening.
 - b. Ground mounted equipment. All ground mounted equipment shall be screened from view by fencing or landscaping of sufficient height to screen the equipment.
- 4. Outdoor storage. All stored materials, supplies, equipment, or other similar materials, including any vehicle, trailers, commercial vehicles, boats (or similar), recreational vehicles, or similar materials that are not on display for direct sale, rental or lease to the ultimate consumer or user must be screened by landscaping or fencing or wall with a minimum height of 6' at time of installation. If outdoor storage materials exceed the height of the allowable fence, then a combination of berming, fencing and landscaping shall be used to accomplish appropriate screening.
- 5. Refuse containers. With the exception of one and two-family dwellings and properties located in the D Downtown District, refuse containers including recycling and grease containers shall be installed as follows:
 - a. Location. Refuse containers shall be located in the side or rear yards of the property and at least 5' from any principal building. To the greatest extent possible, the door side of the enclosure shall be situated

as to not face an abutting property, sidewalk, or street. Properties abutting residential uses shall place the refuse containers as far away as possible from the residential use. Refuse containers may not be placed in the front yard.

b. Access. Refuse containers shall be accessible by the waste hauler to prevent damage to vehicles and buildings.

c. Screening. Refuse containers shall be enclosed by a fence or wall on three sides with a gate for the refuse hauler to gain access.

d. Base. Refuse containers must be located on a concrete or asphalt base, designed to support the refuse container. Where grease containers are used, curbing shall be provided around the enclosure base to contain any spillage.

6. Loading areas. All new exterior loading areas shall be placed at the rear of the building when possible.

a. Loading areas visible from the street shall be screened with a wall or landscaping sufficient height to screen equipment and vehicles.

E. Landscaping and Buffering standards

1. The standards contained in this Section are considered the minimum necessary to achieve the intent. The standards are intentionally flexible to encourage creative design. Property owners are encouraged to provide additional landscaping beyond the minimum requirements to improve the function, appearance, and value of their property.

2. General requirements

a. Design creativity. Creativity in landscape design is encouraged. Accordingly, required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and, equally important, the intent of the integration with existing landscaping on adjacent properties.

b. Installation. When a landscaping plan is required, it shall be installed as part of the building permit construction process. In the event of building completion in the winter months, an installation bond may be required to guarantee completion of the project.

3. Landscape Plan requirements. When a landscape plan is required pursuant to this Ordinance, the landscaping plan shall clearly describe the location, type, size, height, and spacing of materials. The landscape plan may be incorporated into the site plan.

4. General standards for landscape materials and ground cover

a. permitted species. Following is a list of permitted species of trees to be planted. Species not listed are either prohibited or must be reviewed and approved by the zoning administrator after review of the updated MDNR Recommended Trees for Community Planting and/or discussions with the Buchanan Tree Friends Board prior to installation.

Common Name	Botanical Name	Size	Native	Street Sidewalk Friendly	Riparian Friendly	Park/Utility Friendly
Serviceberry	Amelanchier spp.	Small	Yes	Yes	No	No
Eastern Redbud	Cercis canadensis	Small	Yes	Yes	No	No
Pagoda Dogwood	Cornus alternifolia	Small	Yes	Yes	No	No
Flowering Dogwood	Cornus florida	Small	Yes	No	No	No
Kousa Dogwood	Cornus kousa	Small	Yes	No	No	No
Hawthorn (Thornless)	Crataegus spp. Var. inermis	Small	No	No	No	No
Star Magnolia	Magnolia stellata	Small	No	No	No	No
Saucer Magnolia	Magnolia x soulangiana	Small	No	No	No	No
Red Horsechestnut	Aesculus x carnea	Medium	No	No	No	No
River Birch – single stem only	Betula nigra	Medium Large	Yes	No	No	No
European Hornbeam	Carpinus betulus	Small Medium	Yes	No	No	No
American Hornbeam	Carpinus Carolina	Small Medium	Yes	Yes	Yes	Yes
Yellowwood	Cladrastis kentukea	Medium	Yes	Yes	No	No
Turkish Filbert – Turkish Hazel	Corylus colurna	Medium	No	No	No	No
Ginkgo (male only)	Ginkgo biloba	Medium Large	No	Yes	No	Yes
Thornless Honeylocust	Gleditsia triacanthos var. inermis	Medium Large	Yes	No	No	No
American Tamarack	Larix laricina	Medium	Yes	Yes	No	No
Hop-Hornbeam Ironwood	Ostrya virginiana	Small medium	Yes	Yes	Yes	Yes
Sourwood	Oxydendrum arboreum	Small medium	Yes	No	No	No
Persian Parrotia	Parrotia persica	Small medium	Yes	No	No	No
Ohio Buckeye	Aesculus glabra	Large	No	No	No	No
Bitternut Hickory	Carya cordiformis	Large	Yes	No	No	No
Red Maple	Acer rubrum	Large	Yes	Yes	No	Yes

Sugar Maple	Acer saccharum	Large	Yes	Yes	Yes	Yes
Pignut Hickory	Carya glabra	Large	No	No	No	No
Shagbark Hickory	Carya ovata	Large	No	No	No	No
Catalpa	Catalpa spp.	Large	No	No	No	No
Hackberry	Celtis occidentalis	Medium Large	Yes	Yes	Yes	No
Katsura	Cercidiphyllum japonicum	Medium Large	Yes	No	No	no
American Beech	Fagus grandifolia	Large	No	No	No	No
Kentucky Coffeetree	Gumnocladus dioicus	Large	Yes	Yes	No	No
Tulip Tree	Liriodendron tulipifera	Large	Yes	Yes	No	No
Dawn Redwood	Metasequoia glyptostroboides	Large	No	No	No	No
Sycamore	Platanus occidentalis	Large	Yes	Yes	No	No
London Planetree	Platanus acerifolia x	Large	Yes	No	No	no
White Pine	Pinus strobus	Large	Yes	No	No	No
White Oak	Quercus alba	Large	Yes	Yes	No	No
Swamp White Oak	Quercus bicolor	Large	Yes	Yes	Yes	No
Shingle Oak	Quercus imbricaria	Large	Yes	No	No	No
Bur Oak	Quercus macrocarpa	Large	Yes	Yes	No	No
Chinkapin Oak	Quercus muehlenbergli	Large	Yes	Yes	No	No
Red Oak	Qauercus rubra	Large	Yes	Yes	No	No
Baldcypress	Taxodium distichum	Large	Yes	Yes	No	no
American Linden Basswood	Tilia americana	Large	Yes	Yes	No	No
Littleleaf Linden	Tilia cordata	Large	Yes	No	No	No
Silver Linden	Tilia tomentosa	Large	Yes	No	No	No
American Elm	Ulmus americanan x Hybrids	Large	Yes	Yes	Yes	No
Zelkova	Zelkova serrata	Large	No	No	No	no

5. Maintenance. All lot areas not used for buildings, parking, loading, and storage shall be landscaped. Maintenance shall include all reasonable and regular watering, weeding, fertilizing, and pruning. Plant materials that show signs of insect pests, diseases, and/or damage should be removed immediately or as soon as practical under the seasonal conditions existing and according to the approved landscape plan. Any mulch or stone used for ground cover must be maintained and refreshed as needed. Any debris or refuse must be removed as soon as possible. The developer or subsequent owner(s) shall be responsible for maintaining all on-site landscaping in a living condition and shall replace any removed plants required based on the approved landscape plan.

C. Tree lawns and Public Trees.

1. See Chapter 106 Vegetation in the Code of Ordinances.

G. Landscaping

Berms. A berm is a raised mound of soil designed to enhance both the aesthetic and functional aspects of outdoor spaces. They can be installed improve drainage, provide privacy or create a focal point. Berms shall be constructed as follows:

- a. Dimensions. Berms shall be measured from the grade or flat ground adjacent to the berm and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal (33% slope), with a least two (2) feet of flat area on top. Berms may undulate in height, subject to review and approval of the berm design. The height of a berm should not exceed three (3) feet.
- b. Protection from erosion. Any berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, or other types of construction materials to retain the shape and height of the berm shall be prohibited.
- c. Required plantings. The installation of a berm does not eliminate the landscaping requirements.

H. Retaining walls.

A structure designed to restrain the existing natural grade of land or changes to grade associated with mass grading of a parcel where the soil slope would not naturally keep due to steep, near vertical or vertical slopes. A retaining wall is considered landscaping. A retaining wall more than four feet in height when measured from existing grade to the highest point requires a building permit.

I. Green infrastructure. The use of rain gardens or bioretention or vegetated swale facilities may be incorporated into parking lot design. Standard design principles shall be incorporated into the facility.

J. Perimeter Landscaping, Parking Lot Landscaping, Foundation Plantings and Transitional Buffer Strips

1. Applicability.

- a. One- and two-family residential properties shall be exempt from providing perimeter landscaping, parking lot landscaping as required as provided in this Section.
- b. For all other properties any development activity involving an improved property, such landscaping shall be required when the floor area of any building or structure, or parking areas, or any combination thereof, is increased, as follows:
 - i. If the total of the existing such area(s) is increased twenty-five percent (25%) or less, no additional landscaping is required.
 - ii. If the total of the existing such area(s) is increased more than twenty-five percent (25%) but less than fifty percent (50%), such landscaping is required for that portion of the lot which is faced by the expanded area(s).
 - iii. If the total of the existing such area(s) is increased fifty percent (50%) or more, such landscaping is required for the entire development.

The percentage of increase shall be calculated by combining all increases in floor or parking area(s) after the effective date of this ordinance.

2. Minimum Plant sizes at time of planting. The minimum size of landscape plant material at time of installation shall comply with the following:

Plant Type	Minimum Caliper	Minimum Height	Minimum Spread
Deciduous/Canopy Tree	2" measured 2' above grade	N/A	N/A
Ornamental Tree	1.5 inches measured 2' above grade	N/A	N/A
Evergreen Tree	N/A	5'	2'
Deciduous Shrub	N/A	2'6"	2'
Upright Evergreen Shrub	N/A	3-gallon container or 30" in height whichever is greater	N/A
Spreading Evergreen Shrub	N/A	N/A	2' spread
Ornamental or Native Grasses	N/A	18"	N/A
Perennials	N/A	1-gallon container	N/A

3. Perimeter Landscaping.

- a. Trees: Shade trees or evergreen trees are required based on one (1) tree for each seventy (70) feet of lot line length, exclusive of access drives perpendicular to the lot lines.
- b. Ground Cover: Except where occupied by planting beds and trees, all perimeter landscaping areas shall be sodded or seeded with turf grass.

3. Foundation Landscaping: Foundation plantings shall be located adjacent to all sides of buildings which face a public right-of-way or internal street access drives, excluding buildings that are constructed at the front or street side which are not required to provide foundation landscaping.

- i. The foundation landscaping area shall be a minimum of two (2) feet in width and shall remain open and free of all paving except where interrupted for sidewalks and driveways leading directly into the building as necessary ingress and egress.
- ii. Foundation plantings shall consist of a minimum ratio of one plant for every three (3) linear feet of building length. A combination of deciduous shrubs, evergreens, flowers, ornamental grasses and other native ground covers should be used. All planting areas which are not occupied by trees, shrubs, flowers, ground cover, ornamental grasses or mulch shall be sodded or contain decorative landscape stone. Attention should be paid to providing transitions between the building and ground plane, visual breaks along monotonous building facades, and enhancing walkways, entrances, seating areas or other pedestrian areas.
- iii. At the discretion of the Zoning Administrator and City Manager, required foundation plantings may be relocated elsewhere on site or provided in an alternate manner, such as using above-ground planting containers or boxes.

4. Parking Lot Landscaping.

All parking spaces used by employees and guests shall comply with the required parking lot landscape regulations except for areas specifically designated for the storage of vehicles as follows:

- a. Parking in the front and street side yards.
 - i. Where parking stalls and drive aisles abut or face a public street, landscaping shall be required between the parking area and the street right-of-way and shall consist of a landscape strip of land at least five (5) feet in width.
 - ii. Landscaping consisting of one shrub or ornamental grass for each 5' of street frontage excluding curb cuts. One (1) ornamental tree may be planted instead of 5 shrubs or ornamental grasses. Landscaping installed may be placed in groupings within the required landscape strip.
- b. Internal parking lot landscaping and Islands.
 - i. For every twenty (20) parking spaces, there shall be provided a landscape island at least ten (10) feet in width and eighteen (18) in length. The islands shall be dispersed evenly throughout the parking lot.
 - ii. Each landscape island shall include one canopy tree and include ground cover, ornamental grasses, annual or perennial flowers or shrubbery. Vegetation planted shall not infringe on access to the adjacent parking spaces.
 - iv. The landscape island may be used as part of the on-site stormwater management system.

5. Transitional buffer strips.

Transitional buffer strips shall be provided along the interior side and rear yards of a lot where a non-residential use abuts directly upon land zoned or used for one or two family residential. Properties located in the D Downtown District are exempt from providing a transitional buffer strip.

a. A minimum 10' wide transitional buffer strip shall be provided along the shared lot line.

b. Screening within the 10' wide transitional buffer strip may consist of the following:

i. Fence or Wall. A solid 6' fence or wall located 10' from the lot line. The area located outside of the fence must have established grass, ground cover, or other suitable live plant materials and shall be planted over the entire length of the transition buffer strip.

ii. Landscaping. The use of evergreens or a landscape screen is proposed, the plans shall consist of closely spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complex visual barrier that is at least eight (8) feet above the ground level within three (3) years of planting. Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.

iii. A berm may be installed to help create the required transitional buffer strip. Landscaping will be required on the berm.

Sec. 71-36 Specific standards for development approval.

A. General. [Table 71-V](#) summarizes the development review procedures for all types of applications.

TABLE 71-V DEVELOPMENT REVIEW PROCEDURES						
Procedure	Authority					Notices
	Staff	PC	ZBA	CC	DRC	
Text amendments	R	[R]		[DM]		N
Zoning map amendment	R	[R]		[DM]		W, N
Special use permit	R	[DM]				W, N
Variance	R		[DM]			W
Fence Modification	R		[A]			W
Appeals of administrative decision			[DM]			W
Administrative adjustments	DM		[A]			
Site plan review	DM					
Sign permit	DM		[A]			
Temporary use permit	DM		[A]			
Certificate of zoning compliance	DM					
Downtown application	R				DM	
Interpretations	DM		[A]			

TABLE 71-V DEVELOPMENT REVIEW PROCEDURES

Procedure	Authority					Notices
	Staff	PC	ZBA	CC	DRC	
Key						
Planning Commission	PC					
Zoning Board of Appeals	ZBA					
City Commission	CC					
Design Review Committee	DRC					
Review & Recommendations	R					
Decision Making Body	DM					
Appellate Body	A					
Public Hearing Required	[]					
Published Notice	N					
Written Notice	W					

D. Variances

1. Purpose

- a. General. There are ~~two~~ three types of variances allowed under the terms of this chapter: dimensional variances and use variances and fence modifications.
- b. Dimensional variances. Dimensional variances are deviations from the height, setback, yard, lot coverage, parking, landscaping and signage standards of this chapter, when special conditions make the literal enforcement of the provisions of this Ordinance result in peculiar difficulties to the owners of the land, and the deviation would not be contrary to the public interest.
- c. Use variances. Use variances are variations from the schedule of permitted uses in a zone district when unnecessary hardship uniquely associated with the property, this chapter unreasonably restricts the property owner's access to permitted uses.
- d. Fence modifications. Fence modifications are deviations from Section ____ Fence and Wall Standards from height, setback, yard, or alternative materials when special circumstances of the property which are not the reasonably foreseeable result of the actions of the property owner, and the strict enforcement of Section ____ would unreasonably deprive the owner of the lawful use and enjoyment of the property or would be contrary to the spirit and purpose of these provisions or the public interest.

2. Authority. The zoning board of appeals is authorized to review and approve, approve with conditions or disapprove an application for a variance.

3. Standards.

- a. Dimensional variance. The zoning board of appeals will approve a dimensional variance on finding there is evidence that all of the following standards are met:
 - i. There are special circumstances that are peculiar to the property for which the variance is sought, that is not applicable to other land in the same zone district.

-
- ii. The special circumstances are not the result of the actions of the applicant or titleholder of the land.
 - iii. The literal interpretation of the terms and provisions of this chapter would deprive the applicant of rights commonly enjoyed by other land in the same zone district.
 - iv. The variance will not adversely affect adjacent land in a material way.
 - v. The variance is generally consistent with the purposes and intent of this chapter.
- b. Use variance. The zoning board of appeals will approve a use variance on a finding there is evidence that all of the following standards are met:
- i. The literal interpretation of the terms and provisions of this chapter would deprive the applicant from using the property for a permitted use which is a right commonly enjoyed by other land in the same zone district.
 - ii. There is unnecessary hardship based on special circumstances that are peculiar to the property for which the variance is sought that is not applicable to other land or structures in the same zone district.
 - iii. The special circumstances are not the result of the actions of the applicant.
 - iv. The variance will not adversely affect adjacent land in a material way.
 - v. The variance will be generally consistent with the purposes and intent of this chapter.
- c. Fence modification. The zoning board of appeals may approve a fence modification on a finding there is evidence of the following:
- i. There are special circumstances of the property which are not the reasonably foreseeable result of the actions of the property owner, and the strict enforcement of Section ____ would unreasonably deprive the owner of the lawful use and enjoyment of the property or would be contrary to the spirit and purpose of these provisions or the public interest.
 - ii. The applicant has demonstrated the proposed alternative materials are appropriate for the location and how they will be maintained as not to become a nuisance per se.
- c. Conditions of approval. The zoning board of appeals may impose conditions on the proposed use as necessary to ensure compliance with the standards in this section.
- d. Recording. The zoning board of appeals may require the applicant to record the variance with the County Register of Deeds. The variance is binding upon the landowners, their successors and assigns.
- e. Expiration. Unless specified in the variance, an application for a construction permit must be applied for and approved within one year of the date of the approval of the variance, otherwise the variance becomes invalid. Permitted time frames do not change with successive owners.

B. Extension. Upon written request, one extension of six months may be granted by the zoning board of appeals for good cause.

C. Appeals of administrative decisions.

1. Authorization. Any person effected by any decision made by the zoning administrator may appeal the decision to the zoning board of appeals.

2. Procedure.

a. Initiation of appeal. An appeal must be initiated by filing within 30 days of the date of the decision.

b. Contents of appeal. The written appeal of the administrative decision must include a statement of the error, the date of that decision, and all materials related to the decision. A nonrefundable filing fee as set by resolution of the city commission must also be submitted.

c. Scheduling of notice and hearing. The zoning administrator will schedule a hearing at the next regularly scheduled zoning board of appeals meeting.

d. Action by zoning board of appeals. At the hearing on the appeal, the appellant must state the grounds for the appeal and identify any materials or evidence from the record to support the appeal. The zoning administrator will be given an opportunity to respond. After the conclusion of the hearing, the zoning board of appeals will affirm, partly affirm, modify, or reverse the decision.

3. Standards. A decision will not be reversed or modified unless there is substantial evidence in the record that the decision fails to comply with either the procedural or substantive requirements of this chapter, state law, or the federal or state constitutions.

4. Conditions. The zoning board of appeals may impose conditions upon an affirmative decision to ensure the requirements and purposes of this chapter are followed.

E. Administrative adjustments.

5. General. This section sets out the procedures and standards for administrative adjustments, which are modifications of 10% or less of any numeric dimensional standard of this chapter.

6. Procedure.

a. Action by the zoning administrator. Within 30 days after the application is determined sufficient, the zoning administrator will review the application and approve, approve with conditions, or disapprove the administrative adjustment.

7. Standards. The zoning administrator may approve an administrative adjustment upon a finding that all of the following standards are met:

a. General. The requested adjustment eliminates an unnecessary inconvenience to the applicant, is consistent with the character of development in the surrounding area and will not result in incompatible land uses;

- b. Mitigates adverse impacts. Any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum extent feasible; and
 - c. Technical nature. The administrative adjustment is of a technical nature and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.
8. Conditions of approval. The zoning administrator may impose restrictions and conditions on an approval as are determined are required to ensure compliance with the general goals, objectives, and policies of this chapter.

ARTICLE V. DEFINITIONS

This Section provides definitions for terms in this chapter that are technical in nature or that may not reflect a common usage of the term.

Fence: ~~a permeable metal or wooden wall, independent of a building.~~ A barrier, railing, buffer or other upright structure, typically of wood, metal or vinyl, enclosing an area of ground, marking a boundary, screening an activity, or creating a visual barrier. A retaining wall is not a fence. Plant material is considered landscaping and not fencing.

Front Setback: the distance from the lot line to the point where a building may be constructed. This area must be maintained clear of permanent structures with the exception of encroachments.

Frontage: the area between a building facade and the vehicular lanes, inclusive of its built and planted components.

Frontage, Primary: corner lots have two frontages. The primary frontage faces the street of the property address.

Frontage, Secondary: the frontage facing the non-addressed street on a corner.

Frontage Line: a lot line bordering a public frontage.

Lot: a parcel of land accommodating a building or buildings under single ownership.

Lot Coverage: the percentage of a lot that is covered by buildings and other roofed structures.

Lot Line: the boundary that legally and geometrically demarcates a lot.

Lot Width: the length of the principal frontage line of a lot.

Planter: the element of the right-of-way which accommodates street trees, whether continuous or individual.

Porch: an open air room appended to a building, with floor and roof but no walls on the sides facing streets.

Rear Setback: the distance from the rear lot line to the point where a building may be constructed. This area must be maintained clear of permanent structures with the exception of encroachments.

Setback: the area of a lot measured from the lot line to a building facade or elevation that is maintained clear of permanent structures, with the exception of encroachments. (Syn: build-to-line.)

Yard: the open area between a building and a property line, as determined by the actual construction on a property. Depending on the footprint of the building, the yard may not be rectangular in shape.

Front Yard: the open space extending the full width of the lot between the wall of the building and the front lot line.

Front Secondary Yard: the open space between the wall of the building and the secondary front lot line.

Rear Yard: the open space extending the full width of the lot between the wall of the building and the rear lot line.

Side Yard: the open space between the building and the side lot line.

Mechanical equipment: means a system or part of a system installed outside of a structure and utilized to provide control of environmental conditions and related process within a structure. Equipment can

include air conditioning units, emergency generators, heat pumps, ductless heat pump (mini-splits), water pumps or other similar things.

Screening

Section 71-27.H Loading standards

b. ~~Off-street loading and refuse collection must be located and screened so it is not visible from adjacent streets, or residential uses.~~ Required off-street loading shall be located and screened in accordance with Section _____.

Delete in entirety:

Sec. 71-26 Buffering

Sec. 71-28 Tree preservation and landscape standards

Sec. 71-29 Fencing standards