

ORDINANCE NO. ORD-12-xx

First Reading :
Public Hearing :

Approved:
Published:
Effective:

AN ORDINANCE TO AMEND SECTIONS

The City of Ann Arbor ordains:

Section 1. That Section 5:10.19 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

[D1 and D2 Downtown Districts]

- (3) Area, height and coverage requirements.
- (a) Except as otherwise provided in this chapter, regulations governing area, height, coverage and open space in the D1 and D2 downtown districts shall comply with the requirements in Table 5:10.19B.

Table 5:10.19B. Schedule of Area, Height, Open Space and Coverage Requirements: D1 and D2 Downtown Districts								
Zoning District	Maximum Usable Floor Area in Percentage of Lot Area (FAR)		Minimum Height [1][2]		Max. Building Height	Max. Building Coverage	Min. Open Space	Min. Gross Lot Size
	Normal (without Premiums)	With Premiums (Sections 5:64-5:65)	In Feet	In Stories				
D1	400%	900% of lot area with affordable housing premiums	24	2		None	None	None
D2	200%	400% of lot area	24	2	See Character Overlay Zoning District Massing	80% of lot area	10% of lot area	None

					Standards (Table 5:10.20A)			
<p>[1] The minimum height requirement shall apply only to new principal use buildings constructed after the effective date of this ordinance (December 26, 2009); otherwise none.</p> <p>[2] The usable floor area of the second story must be a minimum of 75% of the first story usable floor area.</p>								

- (b) Relationship to downtown character overlay zoning districts. The D1 and D2 downtown zoning districts shall be further regulated by the downtown character overlay zoning districts. Unless otherwise specified in this chapter, regulations identified for both the downtown district and the applicable downtown character overlay zoning district shall apply.

- (4) Parking structures.
 - (a) In the D1 district, an off-street parking structure is not permitted at the level of the adjacent street unless separated from the street by a portion of the building that is occupied by a permitted use or uses, with the exception of the portion of a parking structure that provides vehicular or pedestrian access to the street. The permitted use(s) shall be located within the building and have a minimum depth of 25 feet from the exterior of the front wall.
 - 1. On corner lots, this requirement shall apply to lot frontages on primary streets, as defined in section 5:10.20(4). If none of the street frontages is a primary street, an off-street parking structure must be separated from at least 1 street frontage by a portion of the building that is occupied by a permitted use, with the exception of the portion of a parking structure that provides access to the street.
 - (b) In the D2 district, an off-street parking structure shall be located a minimum of 10 feet from the front lot line at the level of the adjacent street and provide a landscape buffer or screening wall between the building and the front property line.
 - (c) In the D1 and D2 districts, any wall of an off-street parking structure that abuts a residential zoning district shall contain no openings or be separated from the lot line by a building occupied by a permitted use or uses.

Section 2. That Section 5:10.20 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

[Downtown Character Overlay Zoning Districts]

- (4) Building frontage standards.
 - (a) Intent. These building frontage designations, in coordination with the downtown character overlay zoning districts, are designed to support the pedestrian-scale character of downtown streets.
 - 1. Primary Street: Lot frontage where placement of buildings at the front property line is desired.
 - 2. Secondary Street: Lot frontage where a range of building setbacks from the front property line is acceptable.
 - 3. Front Yard Street: Lot frontage where a setback from the front property line is desired.
 - (b) Buildings and additions constructed after the effective date of this section (December 26, 2009) on lots zoned D1 or D2 in the downtown character overlay zoning districts shall comply with the building frontage standards in Table 5:10.20B, as applicable.

Table 5:10.20B – Downtown Character Overlay Zoning Districts Building Frontage Standards (Additional Regulations for the D1 and D2 Districts)			
Designation at Right-of-Way Line	Required Front Setback		Additional Requirements and Exceptions
	Minimum	Maximum	
Primary Street	0 feet	1 foot at the streetwall	(1) Up to 20% of the building frontage may exceed the maximum front setback requirement for entry court or plaza area, except in the Main Street Overlay Zoning District. (2) The maximum front setback may be exceeded up to a maximum of 16 feet from the back of curb to allow for pedestrian circulation. (3) Vehicle access shall be provided from a public alley, if accessible. (4) Recesses and alcoves on the level of the adjacent street to accommodate entry ways, display windows, planters, or similar features shall not be considered as setbacks,

			provided the streetwall of upper stories complies with the maximum required front setback.
Secondary street	0 feet	10 feet at the streetwall	(1) Up to 20% of the building frontage may exceed the maximum front setback requirement for entry court or plaza area.
Front yard street	15 feet	None	(1) The average of the established front setbacks of buildings within 100 feet may be used, if less than 15 feet. (2) Unenclosed porches may encroach 8 feet into the required front open space.

Section 3. That Section 5:64 and Section 5:65 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

[Premiums]

5:64. Premiums; Intent.

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

- (1) Intent. The intent of incorporating premiums into the Zoning Ordinance is:
 - (a) To provide an incentive for residential development in and in close proximity to the City's central business core and to encourage affordable housing opportunities in situations where such opportunities might not otherwise be provided.
 - (b) To encourage development which reinforces pedestrian activity along streets within the central business core and to achieve a greater mixture of land uses and intensities than might occur in the absence of such premiums in order to strengthen the economic vitality and diversity which is essential to a healthy and vibrant street life.
 - (c) To provide an incentive for the development of public spaces and pedestrian amenities and to encourage excellence in urban design through the provision of open space and landscaped approaches to buildings at appropriate corners.
 - (d) To provide incentives for the development of energy-efficient and environmentally sustainable buildings.

- (e) To encourage the inclusion of public parking in the development of new private parking structures.
 - (f) To encourage the preservation of historic buildings not currently located in an historic district.
- (2) Premiums are not intended to be used as a basis for the demolition of existing historic buildings in order to increase density.
 - (3) Application. A premium is not available unless a building and its surrounding site incorporates and maintains certain architectural features or land uses, or both, as designated by this Chapter.

5:65. Floor Area Premium Options.

In the C1A, C1A/R, D1 and D2 zoning districts, the normal maximum floor area in percentage of lot area set forth in Sections 5:43 and 5:10.19 may be exceeded on lots located entirely outside of an historic district and/or floodplain when amenities as described in this section are provided, subject to the premium limits designated in Sections 5:43 and 5:10.19B.

- (1) General regulations.
 - (a) Premium options may be applied only to lots that are located entirely outside of an historic district, as designated by Chapter 103, and/or properties that contain no part of an 100-year floodplain, as designated by the city's adopted floodplain map.
 - (b) Premium options apply only to any structure located on the same lot as the amenities or land uses, or both, which give rise to the premium.
 - (c) The use of multiple options to acquire premiums is permitted.
 - (d) All amenities or land uses used to acquire a floor area premium shall remain for the life of the structure. The feature(s) shall only be diminished or discontinued if the additional gross floor area is permanently removed or if another premium option(s) of at least equivalent floor area value, as described in this section, is approved as part of a site plan.
 - (e) Any property that received additional floor area through a premium option(s) which was lawfully established prior to, and lawfully continuing in existence on the effective date of this section (December 26, 2009), shall be deemed a conforming use and/or structure. When modifications to any such property are requested, compliance with the current premium options is required.

- (f) As a condition of receiving the additional floor area through a premium option, the building must comply with the following energy efficiency standards for the construction of all new floor area:
1. A minimum of two points must be achieved under the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Energy & Atmosphere Credit No. 1. The most recent version in effect at the time of site plan approval shall be applied.
 2. Compliance with this requirement shall be verified and documented by the property owner using an industry standard software energy modeling tool (EQUEST or equivalent) prior to the issuance of building permits.
- (g) Provisions implementing the premium options, and ensuring future compliance with the premium options, where applicable, shall be included as a condition to the approval of a site plan, and in a development agreement, or both, as determined by the City Attorney.
- (2) Premium Options.
- (a) Residential Use Premium. In D1 and D2 districts, 0.75 square foot of floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for each square foot of floor area, regardless of location within the building, that is used for multiple-family dwellings. Every sleeping room in the building shall have at least 1 window, sliding glass door, skylight, or other acceptable light transmitting media facing directly to the outdoors. The minimum total glazed area for every sleeping room shall be not less than 8% of the habitable floor area of such room.
- If dwelling units constitute a portion of a mixed use building, dwelling units must be completed and receive a certificate of occupancy in advance or at the same time as the certificate of occupancy for nonresidential use, or the property owner shall provide a performance bond for the residential use at the time the certificate of occupancy is requested, subject to the requirements of Chapter 57.
- (b) Affordable Housing Premium. In D1 and D2 districts, 3,000 square feet of floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for each on-site dwelling unit designated as affordable to lower income households. In the D1 district, the normal maximum usable floor area in percentage of lot area with premiums (700%) may be exceeded, up to a maximum of 900%, to provide dwelling units designated as affordable to lower income households. Designated units shall have a minimum of 600 square feet of floor area and shall remain affordable for workforce households for the life

of the building. Provisions to implement the affordable housing premium option shall meet requirements for affordable units, as determined by the Office of Community Development.

- (c) Green Building Premium. In D1 and D2 districts, floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed in the following increments for site and/or buildings achieving the following levels of the U.S. Green Building Council Leadership in Energy and Environmental Development (LEED) certification for new construction (NC) or existing buildings (EB). The most recent version in effect at the time of site plan approval shall be applied.

LEED Silver certification, with a minimum of 4 points in Energy & Atmosphere Credits No. 1 and 2: 50% of lot area

LEED Gold certification, with a minimum of 6 points in Energy & Atmosphere Credits No. 1 and 2: 150% of lot area

LEED Platinum certification, with a minimum of 8 points in Energy & Atmosphere Credits No. 1 and 2: 250% of lot area.

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

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

Where:

P is the penalty;

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

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

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

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

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

TFAR is the total floor area proposed.

5. Failure of the applicant to comply with the applicant's commitment to achieve the requested LEED certification premium shall not affect the right to occupy any of the premium floor area if a penalty is paid to the City in the amount determined in this section. No additional penalty shall be imposed for failure to comply with the commitment.
 6. If, within 90 days, or such longer period as the planning and development services manager may allow for good cause, the application shall demonstrate, through a supplemental report from the U.S. Green Building Council that it has made sufficient alternations to improvements to earn the requested LEED certification, or to earn more credits toward such a certification, then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final.
- (d) Historic Preservation Premium. In D1 and D2 districts, additional floor area of up to 50% of the lot area shall be allowed in excess of the normal maximum usable floor area in percentage of lot area for a development that preserves a historic resource, as defined in Chapter 103, that is currently listed on or eligible for the National Register of Historic Places

and/or the State Register of Historic Sites. For purposes of calculating the maximum floor area in percentage of lot area for the lot, the floor area of the historic resource shall not be counted in the total.

- (e) Pedestrian Amenity Premium. In C1A, C1A/R and D1 districts, 10 square feet of floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for each square foot of pedestrian amenity improvements, up to a maximum of 8,000 square feet of additional floor area. Any space in which a pedestrian amenity is used to acquire a premium shall not be used for the off-street parking of any vehicle, including, but not limited to, automobiles, bicycles, motor bikes, and scooters; nor shall such area be used for access drives, loading, or trash collection stations, except as noted in paragraph 3d. Interconnections of pedestrian amenities between two or more lots are required to the extent feasible. A public open space used to acquire a premium shall be designed to avoid creation of isolated areas, to maintain lines of sight into the space from streets and major pedestrian walkways, and to provide a secure environment. Lighting shall be provided for public open space premiums which are open at night.

Pedestrian amenities may include:

1. Inner Arcade. A non-publicly owned, continuous, covered space which runs through or along a non-street side of a building and connects public streets, arcades, open space, or sidewalks and is readily accessible and identifiable from the public street, arcade, or sidewalk. An arcade shall meet the following requirements:
 - a. Connect and be accessible from at least two public streets, or a public street and a public or non-public arcade fronting on another public street, or a public street and a public or non-public plaza fronting on another public street, or a public or non-public arcade and another public or non-public arcade fronting on another public street; or a public parking garage and a public street; and
 - b. Measure not less than 12 feet wide; and
 - c. Have an open and unobstructed headroom of at least 12 feet in height; and
 - d. Remain open for use by the general public during all business hours common in the area.

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

2. Plaza. A non-publicly owned continuous space, open to the sky for its entire width and length which fronts on a public street or public sidewalk, which is directly and conveniently accessible to the public at all times for passive recreational activities. Up to two-thirds of the surface area of the plaza may be occupied by features such as seating, permanent planting areas, water features or works of art. When landscaping is provided for a plaza amenity premium, a variety of living trees, shrubs, ground covers, and seasonal plantings shall be used and shall be located in permanently installed beds or planters serviced by automatic irrigation systems or in large containers, provided they cannot be readily removed. A plaza shall meet the following requirements:
 - a. Have a minimum dimension of 10 feet; and occupy not less than 500 square feet; and
 - b. Be at the same grade as the adjacent public sidewalk or not more than 24 inches above or below the grade of adjoining public sidewalk for no more than 50 percent of either length of the sides adjoining and measured at the property line; and
 - c. Be readily identifiable from the public sidewalk; and
 - d. A portion of a plaza may be used for the parking of bicycles, provided the square footage of the plaza is increased beyond the minimum requirement at the rate of 96 square feet for each 2 bicycles parked, and permanently-installed bicycle facilities are provided.
 - e. When seating and/or tables are provided, they shall be available for use by the general public at all times the space is open.
- (f) Public Parking. In D1 districts, the usable floor area of above-grade parking structures reserved for vehicular parking spaces in excess of the minimum requirement shall not be counted toward the maximum usable floor area in percentage of lot area, up to a maximum of 200% of the lot area, if the following conditions are met:
1. The parking spaces are made available to the general public.
 2. The number, location, size, access, layout and design of the parking spaces meet standards for public parking, as determined by the the Downtown Development Authority.

3. The property owner signs and records a development agreement or other document approved by the city attorney outlining the operating conditions for this parking.

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

[Planned Projects]

5:68. - Statement of intent.

The intent of this section is to provide an added degree of flexibility in the placement and interrelationship of the buildings within the planned project and to provide for permanent open space preservation within planned projects. Modifications of the area, height, placement requirements, and lot sizes, where used for permanent open space preservation, of this chapter may be permitted if the planned project would result in the preservation of natural features, additional open space, greater building or parking setback, energy conserving design, preservation of historic or architectural features, expansion of the supply of affordable housing for lower income households or a beneficial arrangement of buildings. A planned project shall maintain the permitted uses and requirements for maximum density, maximum floor area and minimum usable open space specified in this chapter for the zoning district(s) in which the proposed planned project is located.

5:70. - Standards for approval.

(1) Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement regulations of the zoning chapter in the form of a planned project site plan:

(a) The lot or lots included in the planned project must meet the minimum gross lot size requirement of the zoning district in which they are located. In residential zoning districts, the minimum gross lot size shall be the combined total of the minimum gross lot sizes for each dwelling on a parcel. However, the following exceptions may apply.

1. For purposes of this section, zero lot line duplex or townhouse development shall mean a development containing attached single-family units on individual lots. If a planned project for a zero lot line duplex or townhouse development provides affordable housing for lower income households, the minimum gross lot size and width requirements may be reduced. The number of dwelling units permitted shall not exceed the maximum permitted density in the zoning district in which the proposed development is located.

2. In any residential zoning district allowing 3 or fewer dwelling units per acre, when 20% or more of the total area of a development is set aside for permanent open space preservation, the gross lot size may be reduced below the minimum lot area per dwelling unit and width requirements for the zoning district in which it is located, as provided in this section.
- (b) The proposed modifications of zoning requirements must provide 1 or more of the following:
1. Usable open space in excess of the minimum requirement for the zoning district. Where no minimum usable open space standard is required by the zoning district, a minimum usable open space standard shall be established by the approval of the planned project.
 2. Building or parking setback(s) in excess of the minimum requirement for the zoning district. Where no minimum building or parking setback is required by the zoning district, a minimum setback standard shall be established by approval of the planned project.
 3. Preservation of natural features that exceeds ordinance requirements, especially for those existing features prioritized in the land development regulations as being of highest and mid-level concern.
 4. Preservation of historical or architectural features.
 5. Solar orientation or energy conserving design.
 6. An arrangement of buildings which provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or impervious surface.
 7. Affordable housing for lower income households.
 8. A recorded conservation easement or similar binding instrument providing for permanent open space of 20% or more of the planned project, in any residential zoning district allowing 3 or fewer dwelling units per acre.

Section 5: That Section 5:169 of Chapter 59 of Title V of the Code of the City of Ann Arbor is amended as follows:

[Off-Street Parking]

5:169. Special parking districts

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

- (1) No off-street motor vehicle parking is required in the special parking district for structures which do not exceed the normal maximum permitted usable floor area or for structures zoned PUD with usable floor area which does not exceed 300% of the lot area. Structures which exceed the normal maximum usable floor area by providing floor area premiums, or PUD-zoned structures that exceed 300% of lot area, shall be provided at the rate of 1 off-street parking space for each 1,000 square feet of usable floor area.
- (2) Off-street bicycle parking is required for residential uses in the special parking district at a rate of 1 off-street bicycle space for each 2,500 square feet of usable floor area shall be provided in compliance with the requirements of section 5:168.1 for Class A spaces. Off-street bicycle parking is required for non-residential uses in the special parking district at a rate of 1 off-street bicycle parking space for each 10,000 square feet of usable floor area and shall be provided in compliance with the requirements of section 5:168.1 for Class C spaces.
- (3) The required bicycle or motor vehicle parking shall be provided on-site, off-site as described in this chapter, or through the execution of a contract for parking permits within the City's public parking system or payment of a contribution in lieu of required parking consistent with the requirements adopted by City Council, or any combination thereof. Approval of a contribution in lieu of required motor vehicle or-bicycle parking, or a contract for parking permits within the city's public parking system shall be conditioned upon the execution of a development agreement. Payment of the contribution in lieu for required parking shall be made prior to the issuance of a certificate of occupancy.
- (4) The applicant may request, as part of a site plan, to meet all or a portion of the bicycle parking requirements by installing bicycle parking spaces in the public right-of-way and/or a public parking structure. City Council may approve this request if there is sufficient space in the right-of-way and/or parking structure and the location is convenient to bicycle users.
- (5) Parking structures that are available solely to residents or employees of the building are not subject to the stall and aisle standards of section 5:168.

Section 6. That this ordinance shall take effect on the 30th day following legal publication.