

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of April 19, 2016

SUBJECT: Amendment to Chapter 55 (Zoning Ordinance), Sections 5:10.10, 5:64, 5:65, 5:68, 5:70 related to Downtown Zoning Districts, Premium Floor Area and Planned Project Modifications, and Chapter 59 (Off-Street Parking), Section 5:169 related to Special Parking Districts.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 (Zoning Ordinance), Sections 5:10.19 D1 and D2 Downtown Districts, 5:64 Premium Intent, 5:65 Floor Area Premium Options, 5:68 Planned Projects Statement of Intent, 5:70 Planned Project Standards for Approval, and Chapter 59 (Off-Street Parking Ordinance), Section 5:169 Special Parking Districts.

STAFF RECOMMENDATION

Staff recommends that the proposed amendments to Chapter 55 (Zoning Ordinance) and Chapter 59 (Off-Street Parking Ordinance) of the City Code be **approved** because the amendments are consistent with the Council Resolutions R-13-078 and R-14-025 and will further goals of the Downtown Plan, the Master Plan Land Use Element, the Master Plan Sustainability Element, and the City's affordable housing goals.

BACKGROUND

In March and April 2013, City Council passed resolutions directing the Planning Commission to review certain aspects of the downtown zoning ordinance and provide recommendations for any necessary amendments. In July 2013, ENP & Associates was hired to assist in that evaluation of the existing downtown zoning regulations. ENP's report was completed in October 2013. The Planning Commission reviewed the report and received additional comments from the public at six meetings. After evaluating the information it received, on December 13, 2013 the Planning Commission endorsed eight recommendations for changes to the zoning map, the zoning ordinance and the development review process. Two of the recommendations were to reduce the residential premium with the goal of encouraging the use of other existing or proposed premiums to compensate for this reduction, such as increased energy efficiency certification, open space with landscape, active ground floor use, balconies and workforce housing, and to eliminate the affordable housing "super premium".

On January 21, 2014, City Council [directed](#) the Planning Commission to begin the process of implementing the eight recommended changes along with two additional charges, and asked for a report back to City Council by October, 2014. The Premium Evaluation is a continuation of that work.

ENP was asked to continue working with the Planning Commission and staff specifically to revisit the premium section of the Zoning Ordinance and facilitate public input. The goal of the community engagement process was to determine what, if any, amendments should be made to align the downtown premiums with community goals. The Planning Commission asked for three focal points to be explored with the public: quality design, energy efficiency, and housing affordability.

Work on the Premium Evaluation began in the spring of 2015 and included the following [public engagement](#) highlights:

- Working session discussions with the Environmental Commission, the Mayor's Downtown Marketing Task Force, the Downtown Citizens Advisory Council, the Housing & Human Services Advisory Board, the Historic District Commission, the Energy Commission, the Design Review Board, and the Ann Arbor Preservation Association.
- Focus groups were offered for affordable housing residents, young families and young professionals
- Five community coffee hour and happy hour drop-in sessions
- Interviews with an architect and a developer (separately) who have designed or developed a downtown building using a premium incentive, Washtenaw County Office of Economic and Community Development staff, Chamber of Commerce staff, and real estate brokers marking a downtown site for the City
- A community-wide survey through Ann Arbor Open City Hall
- A community meeting

The Planning Commission discussed various aspects of the Premium Evaluation at their working sessions on [March 3, 2015](#), [June 9, 2015](#), [January 8, 2016](#) and [February 9, 2016](#). The Ordinance Revisions Committee did the same at their meetings of [March 20, 2015](#), [October 6, 2015](#), and [September 18, 2015](#).

DESCRIPTION OF PROJECT

The Zoning Ordinance currently offers premium floor area, or additional square footage beyond the normal maximum allowed for each zoning district, when certain uses or features are provided. Premiums for residential use, affordable housing, green building, historic preservation, pedestrian amenity, and public parking premiums are currently offered.

Premiums are used by many communities as an incentive to encourage uses and features that the real estate market is not generally providing. Since both the real estate market and a community's goals and priorities change over time, it is appropriate to periodically review the premium options offered. Sometimes demand for a use (example, residential units) becomes strong enough that incentives are no longer needed. Other times, a community decides its priorities have changed so new features should be encouraged (example, quality design).

The Downtown Zoning Premium Evaluation sought to determine whether the current menu of premium options is achieving their intended purposes and whether other types of premiums should be offered. The Premium Evaluation questioned if the incentives were aligned with the current development market and were consistent with goals for downtown Ann Arbor, especially with regarding to housing affordability, energy efficiency and quality design.

From the beginning, engaging citizens and downtown stakeholders was a priority. ENP prepared an [educational packet](#), outlining the evaluation process and providing background on how the premiums work in Ann Arbor. The materials also included brief case studies of other community's who offer premiums.

The suggested zoning ordinance amendments build upon the [prioritization feedback](#) and survey results from the public engagement process and a Planning Commission [policy choice exercise](#). Based on the input from all stakeholders – City Council's directive, Planning Commission, other Boards and Commissions, staff and citizens – the proposed amendment approach balances the stated city goals of a sustainable downtown and increased density in areas with existing utilities and transportation networks with the community desire to strengthen the premium requirements to incentivize unmet needs of environmental sustainability, energy efficiency and workforce housing.

The proposed amendments include:

- Building design requirements on primary and secondary streets (applicable to both normal FAR and premium FAR developments).
- Allowing certain planned project modifications in the downtown zoning districts.
- Requiring energy efficiency standards and a pedestrian amenity provision as a condition to acquire premium floor area.
- Creating a two-tiered premium program. Tier 1 may acquire a 150% FAR bonus in the D1 district and 100% FAR bonus in the D2 district. Tier 2 may acquire a 300% bonus in the D1 district and 200% FAR bonus in the D2 district.
- Tier 1 options include residential use premium and energy efficiency premium.
- Tier 2 options include a workforce housing premium, LEED certification premium and 2030 [Carbon Neutrality] Challenge premium.
- Limiting the maximum amount of off-street parking in special parking districts that may be reserved for exclusive use of a private development.

PROPOSED AMENDMENTS

A complete draft of the proposed amendments is attached. Below are brief descriptions of the proposed changes.

Building Design Requirements – A new section has been added to **Section 5:10.20 Downtown Character Overlay Zoning Districts** that require basic design requirements on primary and secondary streets. The building design requirements are focused on the first floor and address story height; transparency; openings; sill height; and building materials.

Planned Project Modifications – Because building design requirements that are applicable to all new development on a primary- or secondary-designated street are proposed, a method for relief in certain circumstances is proposed as well. Amendments to **Section 5:68 Intent** and **Section 5:70 Standards for Approval** will enable the Planning Commission to make a recommendation and the City Council to approve planned project modifications when strict conformance to the building design requirements would not meet the Historic District Standards and Guidelines (for properties in a historic district) or to propose an iconic design that furthers

the intent and spirit of the Downtown Design Guidelines (for properties not in a historic district). Unlike the established acceptable justifications for planned project modifications which do not require support or a recommendation from another body, the newly proposed justification specifically for flexibility from the building design requirements requires support from the Historic District Commission or the Design Review Board as appropriate in order to be considered for approval.

Prerequisites – **Section 5:65(1) General Regulations** has been changed to clearly indicate that premiums are divided into two tiers and only one tier may be applied to a development. The current general regulations simply require proposed developments using a premium option to achieve at least 2 points under the LEED energy and atmosphere credit category. This single prerequisite is proposed to be replaced with a performance standard requirement of 50% less fossil fuel, greenhouse gas-emitting, energy consumption performance than our regional average or a 25% improvement in performance over heating, cooling and ventilation code. A second requisite is also proposed to now require a pedestrian amenity be provided as part of the development, such as an inner arcade or a plaza.

Tier 1 Premium – Amendments to **Section 5:65(2) Premium Options** establish a two-tiered system for premiums. Two options are offered in Tier 1 to achieve the half of the total maximum bonus floor area. A development in the D1 district may exceed the 400% normal FAR allowance by up to 150% for a total FAR of 550%, and a development in the D2 district may exceed the 200% normal FAR by up to 100% for a total FAR of 300%, by using one of the two Tier 1 options.

The two Tier 1 options are residential use premium and energy efficiency. No changes are proposed to the residential use premium formula, for every square foot of residential use proposed a bonus of 0.75 square feet of floor area is awarded, however the total award is now capped at 550% total FAR in the D1 district and 300% total FAR in the D2 district.

An energy efficiency option has been introduced as a second choice in Tier 1. As proposed, the bonus FAR will be awarded when the development achieves a 40% of higher improvement over the state approved energy code (excluding renewable energy credits). This option may be especially attractive for a development that wishes to be entirely nonresidential.

Tier 2 Premiums – Also in **Section 5:65(2) Premium Options**, three options are now offered in Tier 2 to achieve the full maximum bonus floor area allowed in D1 or D2: workforce housing, LEED certification, or 2030 Challenge by the American Institute of Architects.

Bonus floor area is awarded for developments with at least 25% residential use and at least 10% of the residential use is designated as affordable to workforce households earning between 30 and 60% of area median income. Developers may either provide the workforce housing units within the development or may contribute to the Affordable Housing Fund consistent with the in-lieu fee formula established by City Council. The in-lieu fee option may not be used to replace the residential units themselves, only to offset the affordability provision.

Bonus floor area is also awarded for developments achieving the US Green Building Council's Leadership in Energy and Environmental Design (LEED) version 4 Gold or Platinum Certification for Building Design + Construction or Homes. Currently, bonus floor area is awarded for developments achieving LEED version 3 Silver, Gold or Platinum Certification for new construction or existing buildings.

Finally, bonus floor area can be awarded for developments that achieve the performance standard for new buildings per the 2030 Challenge by the American Institute of Architects of 70% less fossil fuel, greenhouse gas-emitting, energy consumption performance than regional average/median for that building type baseline.

As currently, a monetary penalty will be due for failure to demonstrate full compliance for either the LEED certification or 2030 Challenge premium options.

Off-Street Parking – The proposed amendments also take advantage of the opportunity to include smart improvements to the off-street parking requirements of downtown. Early discussions raised the notion of eliminating all off-street parking requirements for downtown developments. However, after consultation with the DDA and parking experts, a different, best-practice approach is proposed.

The current minimum off-street parking requirement set forth in **Section 5:169(1)** is proposed to become the maximum amount that can be provided for exclusive use of the subject development. Additional parking may still be provided, however, if it is shared with the public. Those spaces would then be available for hourly customers or monthly permit holders, most likely during the normal workday hours, as well as remaining to residents and tenants of the private development.

This approach will allow the public parking system to incrementally expand to keep up with increasing demand, some of which comes from the very same proposed development. At present, the public parking system can only add to its supply with massive capital projects (i.e. the underground Library Lane structure). Those major projects add a significant number of spaces to the system but all of those spaces are concentrated in one spot. By promoting public-private partnerships for off-street parking, the many benefits include new spaces available in underserved areas of downtown.

STAFF COMMENTS

Planning – As stated in our memo of February 9, 2016, the proposed premium amendments package will balance strengthening the premium thresholds, prioritize uses and needs that the development market is not currently providing, and work toward ensuring a sustainable, efficient, and desirable downtown. In the proposed two-tiered approach, half of the maximum premium FAR allowance is designed to be relatively easily attained. Downtown developers will have ample flexibility to plan mixed use buildings, buildings with sufficient density to support mass transit, and buildings with the critical mass of occupants to support a 24-hour downtown. The relative ease of incorporating the Tier 1 premiums serves to further the goals of a wide variety of all of the City's adopted plans and policies. Most developments using Tier 1 premiums should be considered mid-rise buildings, likely between six and ten stories tall.

Tier 2 options, however, will require significant investment by a developer and, as a reward, offer the greatest bonus floor area. In exchange for the possibility of a large-scale, high-rise development in the downtown, the City will gain one of two unmet and desired needs of our community – affordable workforce housing or an exceptionally low impact development.

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Downtown Zoning Premium Amendments
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4/15/16

Attachment: [Proposed Ordinance Amendment \(3/30/16\)](#)

c: City Attorney
Systems Planning
File

ORDINANCE NO. ORD-12-xx

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Public Hearing :

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AN ORDINANCE TO AMEND CHAPTER 55 (ZONING ORDINANCE) SECTIONS 5:10.19, 5:64, 5:65, 5:68, 5:70, AND CHAPTER 59 (OFF-STREET PARKING) SECTION 5:169 TO REVISE THE DOWNTOWN PREMIUM OPTIONS, PLANNED PROJECTS AND SPECIAL PARKING DISTRICTS.

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%	<u>550% with Tier 1 Premiums;</u> <u>700% with Tier 2 Premiums</u> <u>700% of lot area</u>	24	2		None	None	None

		900% of lot area with affordable housing premiums						
D2	200%	300% with Tier 1 Premiums, 400% with Tier 2 Premiums 400% of lot area	24	2	See Character Overlay Zoning District Massing Standards (Table 5:10.20A)	80% of lot area	10% of lot area	None

[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.

[2] The usable floor area of the second story must be a minimum of 75% of the first story usable floor area.

- (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.

- (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	5 feet 4 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, 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.

- (5) Building Design Requirements on Primary and Secondary Streets. Buildings and additions constructed after the effective date of this subsection (ADOPTION DATE TO BE INSERTED) on lots in the downtown character overlay zoning districts with primary and secondary street frontages shall comply with the following building design requirements:
- (a) The height of the street level floor, from floor to ceiling, must be no less than 12 feet but not exceed 14 feet.
 - (b) A minimum of 60% of the street floor level façade must be windows or transparent glazing.
 - (c) Openings on the street floor level of the adjacent street, such as windows and doors, may not be more than 2 feet apart.
 - (d) The bottom of all windows on the ground floor level of the adjacent street may not be more than 2.5 feet from the street level.
 - (e) The following materials are restricted or prohibited on facades visible from primary and secondary streets: aluminum or vinyl siding; Dryvit or E.I.F.S. except for accents five feet from street level or higher
 - (f) The following materials are encouraged and recommended, but not required: glass, brick; cut stone; cast stone; fiber cement siding, high-quality finished metal; wood lap; or split-faced block.

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 central business core.
 - (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 to bolster efforts to reach the 2030 Challenge by the American Institute of Architects for all new buildings, developments and major renovations be carbon-neutral by 2030.
 - ~~(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_[AD1]. 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) Premium options are divided into two tiers, Tier 1 and Tier 2. Premium floor area may be acquired by selecting and deomstrating compliance with one of the options within either Tier 1 or Tier 2. The use of multiple options to acquire premiums is not 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 insert date of adoption), 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. Energy Efficiency Standards
 - a. The building must meet the performance standard of 50% less fossil fuel, greenhouse gas-emitting, energy consumption performance than regional average/median for that building type per the baseline set by the Environmental Protection Agency's on-line tool, Target Finder. If the project's building type is not in Target Finder, a 25% improvement in building performance over ASHRAE 90.1-2007 may be substituted.

b. Compliance with this requirement shall be verified and documented by the property owner using an industry standard software carbon calculator (Target Finder or equivalent). Documentation must be submitted with building permit application and verified by the City of Ann Arbor prior to the issuance of building permits.

2. Pedestrian Amenity Provision

As a condition of receiving additional floor through a premium option, the building must have a pedestrian amenity with a square footage equal to at least 5% of the lot 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 b.iv on bicycle parking in plazas. 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:

- a. 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:
 - i. 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

- ii. Measure not less than 12 feet wide; and
- iii. Have an open and unobstructed headroom of at least 12 feet in height; and
- iv. 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.

b. 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:

- i. Have a minimum dimension of 10 feet; and occupy not less than 500 square feet; and
- ii. Be at the same grade as the adjacent public sidewalk or not more than 24 inches above or below the grade of adjoining public sidewalk for no more than 50 percent of either length of the sides adjoining and measured at the property line; and
- iii. Be readily identifiable from the public sidewalk; and
- iv. A portion of a plaza may be used for the parking of bicycles, provided the square footage of the plaza is increased beyond the

minimum requirement at the rate of 96 square feet for each 2 bicycles parked, and permanently-installed bicycle facilities are provided.

v. When seating and/or tables are provided, they shall be available for use by the general public at all times the space is open.

~~1. A minimum of 2 points must be achieved under the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Energy & Atmosphere Credit No. 1. The most recent version in effect at the time of site plan approval shall be applied.~~

~~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) Tier 1. The following premium options may be used to exceed the normal floor area as a percentage of lot area allowance up to 150% in the D1 district and 100% in the D2 district.

1. 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. All units shall have a minimum square footage of 400 square feet of residential usable floor area. 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.

2. Energy Efficiency: Floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for site and/or buildings achieving a 40% or higher improvement over the state approved energy code, excluding renewable energy credits. Compliance with this requirement shall be verified and documented by the property owner using an industry standard software energy modeling tool (EQUEST or equivalent). Documentation must be submitted with building permit application and verified by the City of Ann Arbor prior to the issuance of building permits.

Failure to submit documentation 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.

Failure to demonstrate full compliance with the applicant's commitment to achieve the requested energy performance shall be a violation of this ordinance. The penalty for each violation is an amount determined by the following formula:

$$P = [(EP-EA) / EP] \times CV \times (EFAR/TFAR)$$

Where:

P is the penalty;

EP is the proposed percentage of performance over the state approved energy code standards;

EA is the actual percentage of performance over the state approved energy code standards;

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

EFAR is the amount of floor area proposed that is attributable to the Energy Efficiency Premium;

TFAR is the total floor area proposed.

Failure of the applicant to comply with the applicant's commitment to achieve the requested energy efficiency 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.

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 that it has made sufficient alternations to improvements to achieve the energy efficiency premium, then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final.

(b) Tier 2. The following premium options may be used to exceed the normal floor area as a percentage of lot area allowance up to 300% in the D1 district and 200% in the D2 district.

1. Affordable-Workforce housing Premium. Floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for site and/or buildings with at least 25% residential use and 10% or greater of the total usable residential floor area is designated as affordable units for workforce households making between 30 to 60 percent of the area median income of the City of Ann Arbor.

The applicant may construct the units on site or replace up to 100 percent of the residential usable floor area designated as workforce units with payment of a workforce housing contribution in lieu of units consistent with the formula adopted by annual resolution of City Council.

~~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 premium (700%) may be exceeded, up to a maximum of 900%, to provide dwelling units designated as affordable to lower income households.~~

All residential and Designated units shall have a minimum of 600-400 square feet of floor area and shall remain affordable for the life of the building. 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. All designated units shall remain affordable for workforce households for the life of the building, per deed restrictions, a development agreement or other onveyance approved by City Council. Designated units must use the same common facilities in the building (entrances, parking, gathering and recreation areas, stairways, elevators, storge, laundry, trash and recycling) as all other units.

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

2. LEED Certification: Floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for site and/or buildings achieving LEED version 4 Gold or Platinum Certification for Building Design + Construction (BD+C) or Homes. The following restrictions apply:
 - a. 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.
 - b. 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.
 - c. 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.

- d. 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.

- e. 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.
- f. 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.

3. 2030 Challenge by the American Institute of Architects: Floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for site and/or buildings achieving the performance standard for new buildings per the 2030 Challenge by the American Institute of Architects of 70% less fossil fuel, greenhouse gas-emitting, energy consumption performance than regional average/median for that building type per the baseline set by the Environmental Protection Agency's on-line tool, Target Finder.

Compliance with this requirement shall be verified and documented by the property owner using an industry standard software carbon calculator (Target Finder or equivalent). Documentation must be submitted with building permit application and verified by the City of Ann Arbor prior to the issuance of building permits.

Failure to submit documentation 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.

Failure to demonstrate full compliance with the applicant's commitment to achieve the requested performance standard shall be a violation of this ordinance. The penalty for each violation is an amount determined by the following formula:

$$P = [(ED-EA) / EP] \times CV \times (EFAR/TFAR)$$

Where:

P is the penalty;

ED is the proposed decrease in fossil fuel, greenhouse gas-emitting, energy consumption performance than regional average/median for that building type;

EA is the actual decrease in less fossil fuel, greenhouse gas-emitting, energy consumption performance than regional average/median for that building type;

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

EFAR is the amount of floor area proposed that is attributable to the Energy Efficiency Premium;

TFAR is the total floor area proposed.

Failure of the applicant to comply with the applicant's commitment to achieve the requested energy efficiency 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.

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 that is has made sufficient alternations to improvements to achieve the energy efficiency premium, then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final.

~~(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 is has made sufficient alternations to improvements to earn the requested LEED certification, or to earn more credits toward such a certification, then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final.~~

~~(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 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, design 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 and design 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, higher quality design, 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.
9. In the downtown zoning districts: When strict conformance would not meet Historic District Standards and Guidelines, and the modifications are recommended by the Historic District Commission; or, when the design will result in an iconic development that furthers the intent and spirit of the Downtown Design Guidelines for excellence in the degree to which new development fits comfortably within the existing fabric of the city, and the modifications are recommended by the Design Review Board.

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 ~~provide parking spaces for the usable floor area in excess of the normal maximum permitted. This parking shall be provided at the rate of 1 off-street parking space for each 1,000 square feet of usable floor area.~~

~~Each parking space reserved, signed and enforced for a car-sharing service may count as 4 required motor vehicle parking spaces~~comply with the following regulations:-

- (a) Maximum Parking Spaces: The number of parking spaces for on-site tenants, businesses and their visitors provided must comply with the standards in the table below:

<u>Type of Use</u>	<u>Maximum number of parking spaces</u>
<u>Non-residential</u>	<u>1 off-street parking space for each 1,000 square feet of usable floor area</u>
<u>Residential</u>	<u>1 off-street parking space per dwelling unit</u>

- (b) Exception for Maximum Parking Spaces: For all uses, up to twice the maximum amount of parking spaces may be provided, if the following conditions are met:

1. Any space dedicated for car-share parking shall not be counted toward the maximum number of spaces permitted above. Such spaces shall be reserved, signed and enforced through a contractual agreement with a recognized car-share service provider.
2. Additional spaces shall be allowed if at least half of all spaces provided, but no less than 25 spaces, meet one of the following conditions:
 - a. Offered the Ann Arbor Downtown Development Authority to be managed as part of the public parking system;
 - b. Managed independently as public parking. Independently managed parking must be designated as public parking, by

appropriate signage and markings; offer at least 12 total hours, and 8 contiguous hours of public parking in any 24-hour period; and be managed according to a management plan, approved by the City and the Ann Arbor Downtown Development Authority. At a minimum, such a plan will identify the hours and rates for all public spaces, permit management and payment collection details, as well as a general facility plan identifying the location of these spaces, points of access to them, and all equipment to be installed to manage and maintain public access to the facility.

c. Provided off-site 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 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.

- (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.