

ORDINANCE NO. ORD-12-xx

First Reading : Approved:

Public Hearing :

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:

(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% of lot area	700% of lot area 900% of lot area with affordable housing premiums	24	2		None	None	None
D2	200% of lot area	400% of lot area	24	2	See Character Overlay Zoning District	80% of lot area	10% of lot area	None

					Massing 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>								

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:

- (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	<p>(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.</p> <p>(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.</p> <p>(3) Vehicle access shall be provided from a public alley, if accessible.</p> <p>(4) Recesses and alcoves on the level of the adjacent street to accommodate entry ways, display windows, planters,</p>

			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	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 setback 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 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

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.~~

- ~~(dc)~~ 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. 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.

Section 14. That Section 5:65 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows

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.~~

- (cd) 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.
- (de) 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 (**ADOPTION DATE TO BE INSERTED**), 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.
- (ef) 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. 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.
 - 2. 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.
- ~~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 for up to 100 FAR in the D2 district and 150 FAR in the D1 district.

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 Workforce Housing Premium. Buildings with at least 10% of the floor area designated as affordable units for workforce households making between 30 to 60% of the area median income and with at least 25% of the floor area as residential use, may exceed the normal FAR by up to 300% in the D1 district and 200% in the D2 district.

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. To determine the number of units replaced, the residential usable floor area to be replaced shall be divided by the minimum unit size allowed in this section. Any fractional units shall be rounded down.

~~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~~ 400 square feet of floor area and shall remain affordable for the life of the building. Designated units must use the same common facilities in the building (entrances, gathering and recreation areas, stairways, elevators, storage, 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.

- (c) Green Building Premium. In D1 and D2 districts, floor area in excess of the normal maximum usable floor area shall be allowed for site and/or building achieving the following levels of energy efficiency or U.S. Green Building Council Leadership in Energy and Environmental Development (LEED) certification for new construction (NC) or existing buildings (EB).

i. 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 ASHRAE 90.1-2007 standards, excluding renewable energy credits. The percentage of lot area by zoning district is as follows:

D1 District: 150% of lot area

D2 District: 100% of lot area

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 ASHRAE 90.1-2007 standards;

EA is the actual percentage of performance over the ASHRAE 90.1-2007 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.

- ii. 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 percentage of lot area by zoning district is as follows:

D1 District: 300% of lot area

D2 District: 200% of lot area

~~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.~~
- ~~1. 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 this ordinance shall take effect on the 30th day following legal publication.