

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 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%	550% with Tier 1 Premiums; 700% with Tier 2 Premiums	24	2		None	None	None
D2	200%	300% with Tier 1 Premiums; 400% with Tier 2 Premiums	24	2	See Character Overlay Zoning District Massing Standards	80% of lot area	10% of lot area	None

					(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 floor area of the second story must be a minimum of 75% of the first story 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.

Designation at Right-of-Way Line	Required Front Setback		Additional Requirements and Exceptions
	Minimum	Maximum	
Primary Street	0 feet	5 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. (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 sub-section ([*adoption date*]) 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 its floor to the next floor above, must be no less than 15 feet but not exceed 20 feet.
- (b) A minimum of 60% of the street floor level façade must be windows or transparent glazing.
- (c) The bottom of all windows on the ground floor level of the adjacent street may not be more than 2.5 feet from the adjacent sidewalk level.
- (d) The following materials are restricted or prohibited on facades visible from primary and secondary streets: aluminum or vinyl siding, or an exterior insulation finishing system, except for accents eight feet from street level or higher.
- (e) The following materials are required: glass, brick; cut stone; cast stone; or high-quality finished metal. Other materials may be permitted if recommended by the Design Review Board and approved by the Planning Commission as part of a site plan.

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 floor area in percentage of lot area established by this chapter for structures in the 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 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 central business core.
 - (c) 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.
- (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 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 demonstrating compliance with one of the five options offered. 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 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 (*[adoption date]*), 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 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. Equivalent measuring tools may be used as determined by the Building Official.
 - 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 measuring tool as determined by the Building

Official). Documentation must be submitted with building permit application and verified by the City of Ann Arbor 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 achieve the maximum floor area with Tier 1 premiums provided in Section 5:10.19B:
 - 1. Residential Use Premium. One square foot of floor area in excess of the normal maximum floor area in percentage of lot area shall be allowed for each square foot of floor area proposed for residential use.
 - a. Premium floor area may be used for any permitted principle use of the district in which the lot is located. The residential uses may be provided anywhere within the building.
 - b. Each dwelling unit shall have a minimum square footage of 400 square feet of floor area. Every sleeping room in the dwelling unit 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.
 - c. 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 floor area in percentage of lot area, 150% in the D1 district and 100% in the D2 district, shall be allowed for site and/or buildings achieving a 30% or higher improvement over the state approved energy code, excluding renewable energy credits.
 - a. Compliance with this requirement shall be verified and documented by the property owner using an industry

standard software energy modeling tool (EQUEST or equivalent modeling tool as determined by the Building Official). Documentation must be submitted with building permit application and verified by the City of Ann Arbor prior to the issuance of building permits.

- b. 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.
- c. 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.

- d. 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.
- e. 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 achieve the maximum floor area with Tier 2 premiums provided in Section 5:10.19B:
1. Workforce Housing Premium. Floor area in excess of the normal maximum floor area in percentage of lot area, 300% in the D1 district and 200% in the D2 district, shall be allowed for site and/or buildings with at least 25% residential use, of which at least 10% is designated as affordable dwelling units for workforce households making between 50 to 80 percent of the area median income of the City of Ann Arbor.
 - a. Workforce dwelling units may be provided in the building or may be replaced with market rate residential uses upon a payment in lieu consistent with the formula adopted by annual resolution of City Council as long as the site and/or building maintains 25% residential use.
 - b. All dwelling units shall have a minimum of 400 square feet of 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.
 - c. All designated units shall remain affordable for workforce households for the life of the building, per deed restrictions, a development agreement or other conveyance approved by City Council. Designated units must use the same common facilities in the building (entrances, parking, 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.
 2. LEED Certification: Floor area in excess of the normal maximum floor area in percentage of lot area, 300% in the D1 district and 200% in the D2 district, shall be allowed for site and/or buildings achieving LEED Silver, Gold or Platinum Certification for Building Design + Construction (BD+C) or Homes, the version current at the time of site plan application. 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.
 - g. There is no penalty if the applicant fails to maintain its LEED certification beyond three years after receiving the certification.
3. 2030 Challenge by the American Institute of Architects: Floor area in excess of the normal maximum floor area in percentage of lot area, 300% in the D1 district and 200% in the D2 district, 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.
- a. Compliance with this requirement shall be verified and documented by the property owner using an industry standard software carbon calculator (Target Finder or equivalent modeling tool as determined by the Building Official). Documentation must be submitted with building

permit application and verified by the City of Ann Arbor prior to the issuance of building permits.

- b. 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.
- c. 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.

- d. 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.
- e. 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.

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 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 lot size requirement of the zoning district in which they are located. In residential zoning districts, the minimum lot size shall be the combined total of the minimum 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 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 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. Open space in excess of the minimum requirement for the zoning district. Where no minimum open space standard is required by the zoning district, a minimum 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 floor area or for structures zoned PUD with floor area which does not exceed 300% of the lot area. Structures which exceed the normal maximum floor area by providing floor area premiums, or PUD-zoned structures that exceed 300% of lot area, shall
- (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 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 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.