

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of June 4, 2019

SUBJECT: Amendments to Chapter 55 (Unified Development Code) to correct an error in the dimensional standards table, and amend the premium options.

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 Unified Development Code, Section 5.17.4, Table 5:17-4, Mixed Use Zoning District Dimensions to correct an error and clarify the requirements, and Section 5.18.6 Premiums to incentivize affordable dwelling units in the downtown zoning districts.

STAFF RECOMMENDATION:

Staff recommends that the amendments to the Unified Development Code be **approved**.

SUMMARY:

One correction to the mixed use zoning district dimensional table and one amendment to change the residential premium option to further promote affordable dwelling units in downtown developments in the Unified Development Code are proposed.

PROPOSED CORRECTIONS AND AMENDMENTS:

1. Correction to Dimensional Standards Table

In **Section 5.17.4, Table 5:17-4**, the cell for maximum front required setback in the C3 district indicates no dimension and references footnotes B, C, and G. This is incorrect. It should indicate 25 feet and reference footnote A. And, the cells for maximum front required setback in the C1, C1B, and C2B districts incorrectly do not reference footnote A.

Staff also propose to remove redundant and duplicate references, and to move some standards from the footnotes to the table for clarify and efficiency.

2. Amendment to Residential Use and Affordable Housing Premium Option

Amendments to **Section 5.18.6 Premiums** are proposed to increase the amenities achieved through the premium options offered in downtown zoning districts with the goal of increasing the number of affordable dwelling units or payments into the Affordable Housing Fund. This work was requested of Planning Commission by City Council Resolution 19-109, passed on March 18, 2019.

The *residential use premium option* and the *affordable housing premium option* have been combined into a single *affordable residential use premium option*. Increasing blocks of additional floor area may be earned for increasing percentages of affordable dwelling units. When the highest percentage of affordable dwelling units are provided, a payment in lieu option is offered.

TABLE 5.18-1: AFFORDABLE RESIDENTIAL USE PREMIUM	
AMENITY	ADDITIONAL FLOOR AREA
15% of all Dwelling Units are Affordable to Lower Income Households	D1 District: 150% of Lot Area D2 District: 100% of Lot Area
20% of all Dwelling Units are Affordable to Lower Income Households	D1 District: 300% of Lot Area D2: 200% of Lot Area
30% of all Dwelling Units are Affordable to Lower Income Households	D1 District: 500% of Lot Area

With the proposed amendment, every development that uses the residential premium option must include affordable dwelling units as part of the development program. This does not prevent developers from constructing products with only market-rate residential dwellings, but those products must either conform to the normal maximum FAR for the zoning district or use one of the nonresidential premium options such as the green building, historic preservation, pedestrian amenity or public parking premium options. However, for the most part, no single other premium option achieves as much premium floor area as the proposed affordable residential use premium option. The affordable residential use premium option should, therefore, continue to be a popular choice and will result in more affordable dwelling units downtown.

Prepared by Alexis DiLeo
 Reviewed by Brett Lenart
 5-30-19

Attachment: Ordinance to Amend Chapter 55 Unified Development Code (Dimensional Standards Table, Premium Options)

c: City Attorney's Office

UNIFIED DEVELOPMENT CODE
(DIMENSIONAL STANDARDS TABLE, PREMIUM OPTIONS)

AN ORDINANCE TO AMEND SECTION 5.17.4 AND SECTION 5.18.6 OF CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 5.17.4, Table 5:17-4, of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor is amended as follows:

5.17.4 Mixed Use Zoning Districts

Dimensional standards for mixed use zoning districts are provided in Table 5:17-4.

TABLE 5:17-4: MIXED USE ZONING DISTRICT DIMENSIONS											
NOTE: The requirements in this table may be superseded by the standards in Section Error! Reference source not found..											
DISTRICT	MAXIMUM FAR (% OF LOT AREA)		MAXIMUM FLOOR AREA PER NON RESIDENTIAL USE (Sq. Ft.)	REQUIRED SETBACK (FT.)				MINIMUM/ MAXIMUM HEIGHT		MINIMUM GROSS LOT DIMENSIONS	
	NORMAL	WITH PREMIUMS (SEE SEC. 0)		MINIMUM FRONT	MAXIMUM FRONT	MINIMUM SIDE	MINIMUM REAR	(FT.) MIN	STORIES MAX	AREA (SQ. FT.)	WIDTH (FEET)
O	75	N/A	None	15	40 [A]	[B],[C]		[D] None	[D]	6,000	50
C1	100	N/A	8,000 [E]	10	25 [A]	[B],[C]		35 None	<u>35 ft.</u> 3 stories	2,000	20
C1B	150	N/A	None	10	25 [A]	[B],[C]		None 50	<u>50 ft.</u> 4 stories	3,000	20
C1A	200	400	None	None	None	[F]		None	None	None	None
C1A/R	300	600	None	10	None	[F]		None	None	None	None
C2B	200	N/A	None	10	25 [A]	[B],[C]		55 None	<u>55 ft.</u> 4 stories	4,000	40
C3	200	N/A	None	10	[B],[C],[G] 25 [A]	[B],[C]	20 [B],[C]	None 55	<u>55 ft.</u> 4 stories	6,000	60
D1	400	700; 900 with affordable housing premiums	None	See Table 5:17-7		See Table 5:17-6		<u>24 ft and 2 stories</u> (H) 4	Table 5:17-6	None	None
D2 (I)	200	400	None	See Table 5:17-7		See Table 5:17-6		<u>24 ft and 2 stories</u> (H) 4	Table 5:17-6	None	None

NOTES:

[A] Applies only to new detached Buildings constructed or for which a site plan was approved after January 16, 2011, otherwise none. For Lots with more than one Front Lot Line, Required Setbacks shall only apply to one Front Lot Line.

[B] 30 ft. where abutting residentially zoned land, otherwise none.

[C] Plus one foot of additional setback for each foot of Building Height above 30 feet when abutting residentially zoned land.

[D] ~~No minimum~~—No maximum except in any area on a parcel extending 300 feet from an abutting residentially zoned land, the maximum height limits shall be 55 feet and 4 stories.

[E] Maximum Floor Area for each nonresidential use in a Principal or Accessory Building.

[F] Equal to the minimum side and ~~minimum~~ minimum rear setback for the abutting district when abutting a residential district.

[G] 30 ft where abutting residentially zoned land.

TABLE 5:17-4: MIXED USE ZONING DISTRICT DIMENSIONS

NOTE: The requirements in this table may be superseded by the standards in Section **Error! Reference source not found..**

DISTRICT	MAXIMUM FAR (% OF LOT AREA)		MAXIMUM FLOOR AREA PER NON RESIDENTIAL USE (Sq. Ft.)	REQUIRED SETBACK (FT.)				MINIMUM/ MAXIMUM HEIGHT		MINIMUM GROSS LOT DIMENSIONS	
	NORMAL	WITH PREMIUMS (SEE SEC. 0)		MINIMUM FRONT	MAXIMUM FRONT	MINIMUM SIDE	MINIMUM REAR	(FT.) MIN	STORIES MAX	AREA (SQ. FT.)	WIDTH (FEET)
<p>[H] The minimum height is 24 ft. and 2 stories. This Minimum height requirement shall apply only to new principal use buildings constructed after December 26, 2009; otherwise none. The Floor Area of the required second Story must be a minimum of 75 %of the Floor Area of the first Story.</p> <p>[I] All Development in the D2 district shall provide a minimum of 10% of the Lot Area as Open Space, and no Development shall have Building Coverage greater than 80% of the Lot Area.</p>											

Section 2. That Section 5.17.3 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended to read as follows:

5.18.6 Premiums

A premium is an increase in allowable Floor Area to exceed the normal maximum Floor Area Ratio established by this chapter for Structures in the C1A, C1A/R, D1 and D2 Zoning Districts.

A. Purpose

The intent of incorporating premiums into this chapter is:

1. To provide an incentive for affordable residential housing opportunities development in and in close proximity to the City's downtown ~~and to encourage affordable housing opportunities in situations~~ where such opportunities might not otherwise be provided.
2. 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.
3. 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.
4. To provide incentives for the Development of energy-efficient and environmentally sustainable Buildings.
5. To encourage the inclusion of public parking in the Development of new private Parking Structures.
6. To encourage the preservation of historic Buildings not currently located in an historic district.

B. Premiums Not Intended for Historic Buildings

Premiums shall not be used as a justification for the demolition of Buildings in historic districts in order to increase density.

C. Availability

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.

D. Floor Area Premium Options

In the C1A, C1A/R, D1 and D2 zoning districts, the normal maximum Floor Area Ratio set forth in Table 5:17-2 may be exceeded on Lots located entirely outside of an historic district and floodplain when amenities as described in this section are provided, subject to the premium limits designated in Table 5:17-4.

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 that contain no part of a 100-Year Floodplain, according to City's adopted floodplain map as designated by Chapter 100.
- b. Premium options apply only to any Structure located on the same Lot as the amenities or land uses, or both, which give rise to the premium.
- c. The use of multiple options to acquire premiums is permitted.
- d. All amenities or land uses used to acquire a Floor Area premium shall remain for the life of the Structure. The feature(s) shall only be diminished or discontinued if the additional 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, 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:
 - i) 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.
 - ii) 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. **Affordable Residential Use Premium Option**

- a. In D1 and D2 districts, additional Floor Area may be earned to exceed the normal maximum FAR when affordable dwelling units for lower income households are included in a Development as provided below.

TABLE 5.18-1: AFFORDABLE RESIDENTIAL USE PREMIUM	
AMENITY	ADDITIONAL FLOOR AREA
<u>15% of all Dwelling Units are Affordable to Lower Income Households</u>	<u>D1 District: 150% of Lot Area D2 District: 100% of Lot Area</u>
<u>20% of all Dwelling Units are Affordable to Lower Income Households</u>	<u>D1 District: 300% of Lot Area D2: 200% of Lot Area</u>
<u>30% of all Dwelling Units are Affordable to Lower Income Households</u>	<u>D1 District: 500% of Lot Area</u>

- ~~a.b. 0.75 square foot of Floor Area in excess of the normal maximum Floor Area Ratio shall be allowed for each square foot of Floor Area, regardless of location within the Building, used for Multiple Family Dwellings. Every sleeping room in the Building shall have at least 1 window, sliding glass door, skylight, or other acceptable light transmitting media facing directly to the outdoors. The minimum total glazed area for every sleeping room shall be not less than 8% of the 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 provisions of Section ___.

- d. Provisions to implement the affordable housing premium option dwelling units shall meet requirements for Affordable Housing for Lower Income Households, as determined by the Office of Community Development. Income qualification shall follow the standards established by the Michigan State Housing Development Authority.

- ~~b.e. In the D1 district, when 30% of all Dwelling Units are Affordable to Lower Income Households, up to half of the affordable designated dwelling units may be offered at market rates when a payment in lieu for each has been paid to the Affordable Housing Fund. Payment in lieu shall be based on the formula adopted by resolution of the City Council.~~

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~~3. Affordable Housing Premium Option~~

~~In D1 and D2 districts, 3,000 square feet of Floor Area in excess of the normal maximum Floor Area Ratio shall be allowed for each on-site Dwelling Unit designated as Affordable Housing for Lower Income Households. In the D1 district, the normal maximum Floor Area Ratio with premiums (700%) may be exceeded, up to a maximum of 900%, to provide Dwelling Units designated as affordable to lower income households. Designated units shall have a minimum of 600 square feet of Floor Area and shall remain affordable for the life of the Building. Provisions to implement the affordable housing premium option shall meet requirements for Affordable Housing for Lower Income Households, as determined by the Office of Community Development.~~

4.3. Green Building Premium Option

- a. In D1 and D2 districts, Floor Area in excess of the normal maximum Floor Area Ratio 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. The most recent version in effect at the time of site plan approval shall be applied.
 - i) LEED Silver Certification, with a minimum of four points in Energy & Atmosphere Credits No. 1 and 2: 50% of Lot Area.
 - ii) LEED Gold Certification, with a minimum of 6 points in Energy & Atmosphere Credits No. 1 and 2: 150% of Lot Area.
 - iii) LEED Platinum Certification, with a minimum of 8 points in Energy & Atmosphere Credits No. 1 and 2: 250% of Lot Area.
- b. 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.
- c. Within six months of receiving the final certificate of occupancy, the Applicant shall submit to the Planning 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 Manager at his or her discretion for a period not to exceed three months if additional time is needed to complete the LEED Certification process, and the Applicant has been diligently working towards completion.
- d. 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.
- e. 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.

- f. 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.
- g. If, within 90 days, or such longer period as the Planning 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.

5.4. Historic Preservation Premium Option

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 Floor Area Ratio 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 Ratio for the Lot, the Floor Area of the historic resource shall not be counted in the total.

6.5. Pedestrian Amenity Premium Option

- a. General

In C1A, C1A/R and D1 districts, ten square feet of Floor Area in excess of the normal maximum Floor Area Ratio 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 Section 5.1.1D.5.c.iv) 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 the options listed below.

b. Inner Arcade

i) General

A non-publicly owned, continuous, covered space that 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.

ii) Art Work

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

c. 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 $\frac{2}{3}$ 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 ten 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% of either length of the sides adjoining and measured at the Lot 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 two bicycles parked, and permanently-installed bicycle facilities are provided; and
- 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.

7.6 Public Parking Premium Option

In the D1 district, the 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 Floor Area Ratio, up to a maximum of 200% of the Lot Area, if the following conditions are met:

- i) The Parking Spaces are made available to the general public;
- ii) The number, location, size, access, layout and design of the Parking Spaces meet standards for public parking, as determined by the Downtown Development Authority;
- iii) 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 3. That cross-references be reestablished or renumbered consistent with this ordinance and other contemporaneous ordinances amending these sections.

Section 4. This ordinance shall take effect and be in force on and after ten days from legal publication.