



TO: Housing and Human Services Advisory Board

FROM: Office of Community and Economic Development
Teresa Gillotti, Director

DATE: July 11, 2019

RE: Draft recommendations to City of Ann Arbor Zoning Policy: Planned Unit Development and definition of Affordable Housing for Lower Income Households

Background: The City of Ann Arbor Zoning ordinance provides some incentive-based zoning to encourage the development of affordable housing and/or payment of a fee-in-lieu of development of affordable housing. The Planning Department is leading a review of the Downtown Premium Zoning incentives, to see how those could further encourage the development of more affordable housing in those particular downtown districts. Meanwhile, the HHSAB is reviewing some of the definitions used in relation to Planned Unit Development, in particular the definition of Lower Income Household.

Planned Unit Development Zoning.

The purpose of Planned Unit Development zoning is written into the City of Ann Arbor ordinance, Section 5.13.9 (formatting and emphasis added by staff):

The purpose of this district is to permit flexibility in the regulation of land Development;

- *to encourage innovation in land use and variety in design, layout and type of Structures constructed;*
- *to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; to encourage provision of Open Space³⁹ and protection of Natural Features;*
- *to provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the City;*
- **to expand the supply of Affordable Housing for Lower Income Households** *and to encourage the use, reuse and improvement of existing Sites and Buildings that will be developed in a compatible way with surrounding uses but where the uniform regulations contained in other zoning districts do not provide adequate protections and safeguards for the Site or surrounding area.*

The district is intended to accommodate developments with one or more land uses, Sites with unusual topography or unique settings within the community or Sites that exhibit difficult or costly Development problems or any combination of these factors.

This zoning district shall not be allowed where it is sought primarily to avoid the imposition of standards and requirements of other zoning classifications or other City regulations rather than to achieve the stated purposes above.

Central to the Planned Unit Development District, is a requirement that Affordable Housing for Lower Income Households be provided. This requirement is described in Section 5.29.10 F 5



5. If the proposed district allows residential uses, the residential density proposed shall be consistent with the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, unless additional density has been proposed in order to provide Affordable Housing for Lower Income Households in the following manner:

a. Proposed PUD projects exceeding the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, by up to 25% shall provide 10% of the total Dwelling Units as Affordable Housing for Lower Income Households. Proposed PUD projects exceeding the residential density recommendation of the master plan, or the underlying zoning when the master plan does not contain a residential density recommendation, by over 25% shall provide 15% of the total Dwelling Units as Affordable Housing for Lower Income Households.

b. Affordable Housing for Lower Income Households shall be provided by the Development of units on-site, or payment of an affordable housing contribution in lieu of units consistent with the formula adopted by annual resolution of City Council, or by a combination of affordable housing Development and contributions.

c. When the affordable housing requirement results in a fractional unit, the fractional unit shall be converted to an affordable housing contribution in lieu of units, using the following formula: the fraction shall be multiplied by the per-unit PUD affordable housing contribution as determined by the formula adopted annually by City Council.

d. The Planning Commission shall recommend approval, approval with conditions, or denial, and City Council, in its sole discretion, may approve or deny payment of an affordable housing contribution in lieu of units.

e. Provisions to implement the affordable housing proposal shall be included in the PUD Supplemental Regulations or the Development Agreement, or both, as determined by the City.

As noted above, the interest is not in changing any of these standards, but in reviewing and modifying some of the definition of Lower Income Household, as described and codified in Article VIII Definitions 5.3.2 Specific Terms (emphasis added by Staff)

Affordable Housing for Lower Income Households

Housing units for households or individuals with income levels (including low and very low income levels) that are **less than 80%** of City median income as defined by the United States Department of Housing and Urban Development where the occupant is **paying no more than 30% of gross income for housing costs, including taxes and utilities**

Of interest in the definition are both the income level (80% of the Area Median Income) as well as the calculation for the amount of rent to be paid.

Income Level:

The Current level of 80% Area Median Income is in line with many federal funded programs such as HOME investment Partnership, Community Development Block Grant and Low-Income Housing Tax



Credits. However, other Ann Arbor policies have preferred a lower income goal for affordable housing. Both the 2015 Housing Affordability and Economic Equity Analysis (adopted by Ann Arbor City Council in 2015) and the Affordable Housing Fund Policy have a limit of 60% of the Area Median Income. The DDA Affordable housing Fund lists a target of 50% of the Area Median Income.

To better align the zoning ordinance with other City policy, staff suggests the HHSAB recommend the following change:

Housing units for households or individuals with income levels (including low and very low income levels) that are less than ~~80%~~ 60% of City-Area median income as defined by the United States Department of Housing and Urban Development ...

As a reminder, the following table includes the Area Median Income by household size, noting the various levels of policy and financing as well.

AREA MEDIAN INCOME

	1 Person	2 Person	3 Person	4 Person	5 Person
30% Supportive Housing, Special Needs, Homeless Voucher	\$21,250	\$24,300	\$27,350	\$30,350	\$32,800
50% Housing Choice Voucher, DDA housing funds	\$35,450	\$40,500	\$45,550	\$50,600	\$54,650
60% City PILOT, AAHF	\$39,060	\$44,640	\$50,220	\$55,740	\$60,240
80% LIHTC, HOME, CDBG, City Zoning, Public Housing	\$52,850	\$60,400	\$67,950	\$75,500	\$81,550
100%	\$70,900	\$81,800	\$91,100	\$101,200	\$109,300
120%	\$85,000	\$97,200	\$109,400	\$121,400	\$131,200

PILOT = Payment in Lieu of Taxes. LIHTC = Low-Income Housing Tax Credits

State of MI Median \$67,300

Second, is the discussion around the rate of rent. As with all committed affordable units, restrictions are needed for both incomes and rent. For example, if rent is restricted on its own, households of various incomes would be interested in lower rent just as a great value. To meet the needs of lower income households, it's important that properties with rents that have a lower rent restriction, or reserved for households with lower-incomes. Otherwise, there would be even fewer options for those households.

As written, rent is set to fluctuate based on the tenants' income. While theoretically this makes sense, it is much more challenging for managing the property and having an expectation of rents for cash flow purposes. Staff reviewed both the HUD Fair Market Rents and the MSHDA Income/Rents,



as both are published annually. Staff is recommending using Fair Market Rents to ensure that households with a voucher will be able to rent the units developed through incentive zoning. As currently, MSHDA's rents by unit size are exceeding 110% of the Fair Market Rents (the maximum amount a voucher can pay).

The recommended text change would be:

Housing units for households or individuals with income levels (including low and very low income levels) that are less than ~~80%~~ 60% of ~~City-Area~~ median income as defined by the United States Department of Housing and Urban Development where the occupant is paying no more than ~~30% of gross income~~ the annually published Fair Market Rents based on unit size -for housing costs, including taxes and utilities

Proposed HHSAB resolution:

The HHSAB requests that the Planning Commission review the HHSAB recommended changes to the zoning ordinance definition around Affordable Housing for Lower Income Populations. The changes would put the definition more in line with other City policy around Affordable housing income thresholds and also provide clarity on corresponding rents.

2019 WORKING DOCUMENT
INCOME LIMITS & AFFORDABLE HOUSING LIMITS (as published by HUD)

2019 HUD Income Limits- Washtenaw County (as published by Office of Policy Development and Research (PD&R))

Household Size	1	2	3	4	5	6	7	8
120% Median	\$85,000	\$97,200	\$109,400	\$121,400	\$131,200	\$141,000	\$156,040	\$173,720
Median income	\$70,900	\$81,000	\$91,100	\$101,200	\$109,300	\$117,400	\$125,500	\$133,600
85% AMI (Covenant Units Only)	\$60,265	\$68,850	\$77,435	\$86,020	\$92,905	\$99,790	\$106,675	\$113,560
Low income (80% / 75%)	\$52,850	\$60,400	\$67,950	\$75,500	\$81,550	\$87,600	\$93,650	\$99,700
Low income (60%)	\$42,500	\$48,600	\$54,700	\$60,700	\$65,600	\$70,500	\$78,020	\$86,860
Very low income (50%)	\$35,450	\$40,500	\$45,550	\$50,600	\$54,650	\$58,700	\$62,750	\$66,800
Extremely low income (30%)	\$21,250	\$24,300	\$27,350	\$30,350	\$32,800	\$35,250	\$39,010	\$43,430

Effective 4.24.19 for all programs except HOME. Note: the 80% AMI level may not exceed the U.S. Median level. Consequently, our median income is actually 78% of median income. Data Location <https://www.huduser.gov/portal/datasets/il/il2017/2017summary.odn>

2019 HUD Maximum Housing Expense Levels by Household Size (30% of gross monthly income)

Household Size	1	2	3	4	5	6	7	8
120% Median Income	\$2,125	\$2,430	\$2,735	\$3,035	\$3,280	\$3,525	\$3,901	\$4,343
Median income	\$1,773	\$2,025	\$2,278	\$2,530	\$2,733	\$2,935	\$3,138	\$3,340
Low income (80% / 78%)	\$1,321	\$1,510	\$1,699	\$1,888	\$2,039	\$2,190	\$2,341	\$2,493
Low income (60%)	\$1,063	\$1,215	\$1,368	\$1,518	\$1,640	\$1,763	\$1,951	\$2,172
Very low income (50%)	\$886	\$1,013	\$1,139	\$1,265	\$1,366	\$1,468	\$1,569	\$1,670
Extremely low income (30%)	\$531	\$608	\$684	\$759	\$820	\$881	\$975	\$1,086

Effective 4.24.19 Note: For Rental -Includes utilities (except telephone). For Homeownership -Includes taxes, utilities, condo fees, & insurance.

2019 Fair Market Rents (as published by Office of Policy Development and Research (PD&R))

SRO	\$675	Fair Market Rents (FMRs) are primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents, and to serve as a rent ceiling in the HOME rental assistance program are gross rent estimates. They include the shelter rent plus the cost of all tenant-paid utilities, except telephones, cable or satellite television service, and internet service
Efficiency	\$900	
1 bedroom	\$929	
2 bedroom	\$1,140	
3 bedroom	\$1,499	
4 bedroom	\$1,843	

Effective 4.15.19 Data Location: <http://www.huduser.org/portal/datasets/fmr.html>

2018 HOME Program Income Limits (Washtenaw County)

Household Size	1	2	3	4	5	6	7	8
120% Median	\$78,000	\$89,200	\$100,400	\$111,400	\$120,400	\$129,400	\$138,200	\$147,200
Median income	\$65,100	\$74,400	\$83,700	\$92,900	\$100,400	\$107,800	\$115,200	\$122,700
85% AMI (Covenant Units Only)	\$55,335	\$63,240	\$71,145	\$78,965	\$85,340	\$91,630	\$97,920	\$104,295
Low income (80% / 78%)	\$50,350	\$57,550	\$64,750	\$71,900	\$77,700	\$83,450	\$89,200	\$94,950
Low income (60%)	\$39,060	\$44,640	\$50,220	\$55,740	\$60,240	\$64,680	\$69,120	\$73,620
Very low income (50%)	\$32,550	\$37,200	\$41,850	\$46,450	\$50,200	\$53,900	\$57,600	\$61,350
Extremely low income (30%)	\$19,500	\$22,300	\$25,100	\$27,850	\$30,100	\$32,350	\$34,550	\$36,800

Effective 6.1.18 or all HOME programs. Note: the 80% median income level may not exceed the U.S. median income level, consequently our median income it is actually 78% of median.

Data Location: <https://www.hudexchange.info/programs/home/home-income-limits/>

2018 HOME Program Maximum Housing Expense Levels by Household

Household Size	1	2	3	4	5	6	7	8
120% Median Income	\$1,950	\$2,230	\$2,510	\$2,785	\$3,010	\$3,235	\$3,455	\$3,680
Median income	\$1,628	\$1,860	\$2,093	\$2,323	\$2,510	\$2,695	\$2,880	\$3,068
Low income (80% / 78%)	\$1,259	\$1,439	\$1,619	\$1,798	\$1,943	\$2,086	\$2,230	\$2,374
Low income (60%)	\$977	\$1,116	\$1,256	\$1,394	\$1,506	\$1,617	\$1,728	\$1,841
Very low income (50%)	\$814	\$930	\$1,046	\$1,161	\$1,255	\$1,348	\$1,440	\$1,534
Extremely low income (30%)	\$488	\$558	\$628	\$696	\$753	\$809	\$864	\$920

Effective 6.1.18 for all HOME. For Rental -Includes utilities (except telephone). For Homeownership -Includes taxes, utilities, condo fees, & insurance.

2018 HOME Program LOW and HIGH Rent Rates

	LOW	HIGH	50% Rent Limit	65% Rent Limit
SRO*	\$610	\$656	\$610	\$815
Efficiency	\$813	\$875	\$813	\$1,086
1 bedroom	\$871	\$905	\$871	\$1,165
2 bedroom	\$1,046	\$1,103	\$1,046	\$1,399
3 bedroom	\$1,208	\$1,485	\$1,208	\$1,609
4 bedroom	\$1,347	\$1,775	\$1,347	\$1,775
5 bedroom	\$1,486	\$1,940	\$1,486	\$1,940
6 bedroom	\$1,625	\$2,104	\$1,625	\$2,104

Effective 6.1.18. HOME-assisted unit's rent and utilities cannot exceed the HIGH rent rate. A project with 5 or more HOME-assisted units must rent 20% of the units at the LOW rent rate or below families with incomes at 50% AMI or below. *SRO= 75% of Efficiency. Data Location: <https://www.hudexchange.info/programs/home/home-rent-limits/>

FY 2019 Homeownership Purchase Price Limits (homeowner only)

	1 Unit	2 Unit	3 Unit	4 Unit	Median Value*
Maximum (Existing)	\$228,000	\$292,000	\$353,000	\$438,000	\$239,900
Maximum (New)	\$229,000	\$293,000	\$355,000	\$440,000	\$240,973

Effective 4.15.19. OCED procedures adhere the established purchase price limits. Data Location: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>

2018 Maximum Per-Unit Subsidy 221(d)3 (rental and homeowner)

	0-bdrm	1-bdrm	2-bdrm	3-bdrm	4-bdrm
Maximum	165,459	189,675	230,645	298,382	327,529
No-elevator	157,226	181,286	218,365	279,860	311,777

Effective 6.4.18. Data Location: <https://www.onecpd.info/resource/2315/home-per-unit-subsidy/>

04/24/2019 INCOME AND RENT LIMITS

County: 81 Washtenaw

Income	Effective Date: 4/24/2019				
	1 Person	2 Person	3 Person	4 Person	5 Person
20%	14,180	16,200	18,220	20,240	21,860
25%	17,725	20,250	22,775	25,300	27,325
30%	21,270	24,300	27,330	30,360	32,790
35%	24,815	28,350	31,885	35,420	38,255
40%	28,360	32,400	36,440	40,480	43,720
45%	31,905	36,450	40,995	45,540	49,185
50%	35,450	40,500	45,550	50,600	54,650
55%	38,995	44,550	50,105	55,660	60,115
60%	42,540	48,600	54,660	60,720	65,580
80%	56,720	64,800	72,880	80,960	87,440
100%	70,900	81,000	91,100	101,200	109,300
120%	85,080	97,200	109,320	121,440	131,160
125%	88,625	101,250	113,875	126,500	136,625
140%	99,260	113,400	127,540	141,680	153,020
150%	106,350	121,500	136,650	151,800	163,950

Rent By Person	Effective Date: 4/24/2019				
	1 Person	2 Person	3 Person	4 Person	5 Person
20%	354	405	455	506	546
25%	443	506	569	632	683
30%	531	607	683	759	819
35%	620	708	797	885	956
40%	709	810	911	1,012	1,093
45%	797	911	1,024	1,138	1,229
50%	886	1,012	1,138	1,265	1,366
55%	974	1,113	1,252	1,391	1,502
60%	1,063	1,215	1,366	1,518	1,639
80%	1,418	1,620	1,822	2,024	2,186
100%	1,772	2,025	2,277	2,530	2,732
120%	2,127	2,430	2,733	3,036	3,279
125%	2,215	2,531	2,846	3,162	3,415
140%	2,481	2,835	3,188	3,542	3,825
150%	2,658	3,037	3,416	3,795	4,098

Rent By Bedroom	Effective Date: 4/24/2019				
	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
20%	354	379	455	526	587
25%	443	474	569	657	733
30%	531	569	683	789	880
35%	620	664	797	920	1,027
40%	709	759	911	1,052	1,174
45%	797	854	1,024	1,184	1,320
50%	886	949	1,138	1,315	1,467
55%	974	1,044	1,252	1,447	1,614
60%	1,063	1,139	1,366	1,578	1,761
80%	1,418	1,519	1,822	2,105	2,348
100%	1,772	1,898	2,277	2,631	2,935
120%	2,127	2,278	2,733	3,157	3,522
125%	2,215	2,373	2,846	3,289	3,668
140%	2,481	2,658	3,188	3,683	4,109
150%	2,658	2,848	3,416	3,946	4,402

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 5.17.3 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		
<u>AMENITY</u>	<u>ADDITIONAL FLOOR AREA</u>	<u>SPECIFIC STANDARDS</u>
<u>15% of all residential floor area are dwelling units Affordable to Lower Income Households</u>	<u>D1 District: 150% of Lot Area</u> <u>D2 District: 100% of Lot Area</u>	<ul style="list-style-type: none"> • <u>Residential floor area of the building must equal at least 150% of the lot area in the D1 district or 100% of the lot area in the D2 district.</u> • <u>Up to half of the dwelling units affordable to lower income households may be offered at market rates when a payment in lieu for each has been paid to the Affordable Housing Fund.</u>
<u>20% of all residential floor area are dwelling units Affordable to Lower Income Households</u>	<u>D1 District: 300% of Lot Area</u> <u>D2: 200% of Lot Area</u>	<ul style="list-style-type: none"> • <u>Residential floor area of the building must equal at least 300% of the lot area in the D1 district or 200% in the D2 district.</u> • <u>Up to half of the dwelling units affordable to lower income households may be offered at market rates when a payment in lieu has been paid to the Affordable Housing Fund.</u>
<u>30% of all residential floor area are Dwelling Units Affordable to Lower Income Households</u>	<u>D1 District: 500% of Lot Area</u>	<ul style="list-style-type: none"> • <u>Residential floor area of the building must equal at least 250% of the lot area.</u> • <u>The maximum height limit of the character overlay district may be increased by 15%</u> • <u>Up to half of the dwelling units affordable to lower income households may be offered at market rates when a payment in lieu for each has been paid to the Affordable Housing Fund.</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.
- e. The total floor area of dwelling units affordable to lower income households shall be subtracted from the floor area in excess of the normal maximum permitted when calculating off-street motor vehicle parking in Section 5.19.3 Special Parking Districts.

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.

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.

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 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.

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