

# NEIGHBORS FIRST FOR BYWATER



Neighbors First for Bywater, LLC  
Julie Jones, President  
Brian Lockett, Treasurer

New Orleans, LA 70112

Date: March 29, 2015

Re: Amendments to the draft CZO

Dear :

The Board of Neighbors First for Bywater has been working very hard over the last year to understand and analyze the content of the draft Comprehensive Zoning Ordinance. We have held numerous open meetings in Bywater to communicate how the draft CZO will impact our community and to elicit input on making it better. The extensive input that we received demonstrates how passionate and engaged Bywater residents are about our neighborhood.

The following pages present our vision for our neighborhood. We would like to meet with you in person soon to discuss our proposals. Please contact either Julie Jones or Brian Lockett at the above phone numbers or email addresses to schedule a meeting.

Sincerely,

Julie Jones, President and Brian Lockett, Treasurer

# Zoning for Sense of Place

“We shape our buildings and afterwards they shape us”  
Winston Churchill

## Introduction

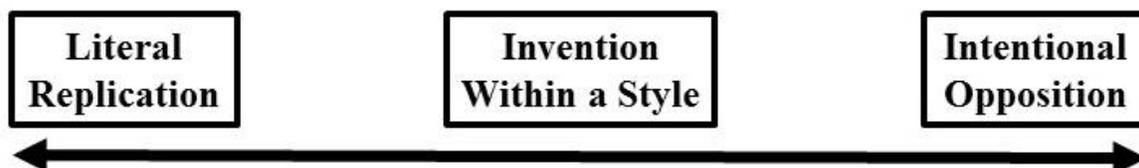
New Orleans’ architecture and culture evolved from a unique sense of place, and that sense of place continues to draw people from all over the world to experience it. But we now find ourselves at a juncture between the past and the future. How we proceed will determine if we retain our unique sense of place or if we succumb to a globalized sameness.

Our identity is under threat from the proliferation of formulaic architecture that hews to an international formula of square footage per cost rather than any proud tradition of local vernacular form. It’s time to rediscover New Orleans and reassert our heritage. Instead of outsourcing architectural design to firms in Los Angeles, Miami, Shanghai or Hyderabad, let’s seize this opportunity to cultivate a uniquely New Orleans school of architecture: call it a “Creole Revival”.

There is an important distinction between architectural form and architectural style. One may be tempted to believe that the Historic Districts Landmark Commission (HDLC) will safeguard our historic neighborhoods against inappropriate buildings. However, the form of a building (height, stories, roofing, orientation, etc.) is determined by zoning, the HDLC only deals with style. It is building form that this plan seeks to get right. If the form of a building does not comport with historic precedent, then the HDLC is put in the impossible position of trying to mask an alien building form with a few stylistic elements. That’s like putting lipstick on a pig.

This plan is a first small step away from the international formula for new construction and towards a place-centered architecture that respects and compliments the urban fabric of our historic neighborhoods. This plan rejects faddish “new urbanism” and, instead, whole heartedly embraces the old urbanism that made New Orleans the architectural and cultural treasure chest that it is. It does not require that new construction be indistinguishable from historic buildings. Rather, it encourages new construction to reflect the form of New Orleans’ Creole vernacular architecture, while allowing for late 19<sup>th</sup> and early 20<sup>th</sup> century industrial forms.

This plan is underpinned by the preservation philosophy put forward by Steven W. Semes in his 2009 book, *The Future of the Past: A Conservation Ethic for Architecture, Urbanism and Historic Preservation*. Dr. Semes establishes a more conservative preservation ethic than is often found among planning professionals, developers and architects who seek to impose their grand vision on a place, despite the contrary wishes of the people who live there. Dr. Semes proposes a preservation ethic characterized by “invention within a style”. This philosophy allows for literal replication of historic buildings, but curtails the worst excesses of glaringly modern structures that he labels “intentional opposition”.



To understand where Dr. Semes' philosophy fits into modern preservation thought, the following excerpt from a Wall Street Journal article from 2011 provides context:

**Cultural Conversation: The Bias Against Tradition, by Catesby Leigh (Sept. 13<sup>th</sup>, 2011)**

Preservation of historically or aesthetically significant edifices is an ancient practice that once provoked little controversy. But as preservation's scope has widened from individual buildings to encompass districts from Colonial Annapolis, Md., to Old Pasadena, Calif., it has become yet another cultural battleground. Much of the debate involves modernist architecture's role in landmark settings of a traditional character. Preservation professionals often advocate modernist additions to these settings, while at the grass-roots level there is strong support for keeping the new work traditional.

Steven W. Semes, a professor at Notre Dame's classically oriented architecture school and author of "The Future of the Past: A Conservation Ethic for Architecture, Urbanism, and Historic Preservation" (2009), has allied himself with the grass roots. "Maintaining a broad stylistic consistency in traditional settings is not a matter of 'nostalgia,'" he says. "It's a matter of common sense, of reinforcing the sense of place that made a building or neighborhood special to begin with. But many academically trained preservationists want to impose their inevitably subjective notions of what the architecture 'of our time' is."

<http://www.wsj.com/articles/SB10001424052702304569504576403841372798886>

Rooted in Steven Semes' philosophy of invention within a style, this plan seeks to cultivate a new Creole vernacular architecture. Here is what Dr. Semes wrote about the importance of respecting local vernacular in architecture:

Adding to a historic environment requires knowledge of and respect for the vernacular architecture characteristic of the place, if one can be identified. To the extent that the evidence of the vernacular is a reason for the setting to have been deemed worthy of preservation in the first place, either we must allow it to grow according to its own tradition or we must intervene with extreme caution and tact to avoid destroying the values that preservation seeks to safeguard.

Dr. Semes explains that this isn't just about aesthetics; this is about sustaining a just community:

The pursuit of the appropriate extends beyond the design of individual buildings; indeed, the design of the cities rests on appropriateness as a means of sustaining civility, establishing a kind of "building ethic" in which liberty and community are in balance.

In addition to encouraging Creole vernacular forms, this plan also addresses community by applying the affordable housing floor area bonus available to CBD development to any new multi-family development in the Historic Core neighborhoods. It further encourages affordable housing by eliminating the opportunity cost to developers of the units devoted to affordable housing. This reinforces New Orleans' long tradition of inclusive housing which builds strong communities.

### **The Plan**

Below, changes to the draft CZO are given in italics preceded by the rationale for those changes. The plan involves changes to four articles: 10, 16, 18 and 26.

# Article 10

## Article 10.B.10: Retail for Residents

Rationale: To promote retail that serves the needs of New Orleans residents, t-shirt shops should be excluded from all Historic Core Districts.

Amendment: **10.B.10** – change “*Vieux Carre’ District*” to “*Historic Core Neighborhoods*”

## Article 10.3.E.: The Loft Exemption

Rationale: Pitched roofs are characteristic of the historic architecture of New Orleans’ Creole Faubourgs. Figure 1 shows an example of a traditional Creole townhouse that incorporates a loft. Pitched roofs will be incentivized in the in the HMC-1, HMC-2 and HM-MU zoning districts through the loft exemption.

The loft exemption applies to any pitched roof and not just buildings with finished attics. Pitched roofs can be used to mask elevator bulkheads and HVAC equipment that would otherwise clutter flat roofs. Builders would not be required to cover the entire top floor of a building with a pitched roof, thus allowing architects to hide elevator bulkheads that provide access to rooftop decks.

Pitched roofs are more expensive to build than flat roofs. Additionally, the floor area of the attic is counted in the calculation of gross floor area in the draft CZO which decreases the floor area of the main floors. If pitched roofs are not incentivized in our historic districts, the character of our roofscapes will be transformed from that of the 19<sup>th</sup> century to that of the 20<sup>th</sup> century. The loft exemption incentivizes pitched roofs by excluding the floor area of a loft from the calculation of gross floor area. Here’s how it works:

The word **Loft** is defined in Article 26 to specify that it refers to a space directly below the roof of a building.

The loft exemption is specified in Article 10.3 and only applies to the commercial zoning districts HMC-1, HMC-2 and HM-MU. Five criteria apply to ensure that the proposed construction meets the definition of a loft.

**Subsection (a)** specifies that the roof must be of a conventional pitch to eliminate the possibility of an essentially flat roof or an A-frame style roof (see figure 2).

**Subsection (b)** enforces harmonious design of the roof with the building.

**Subsection (c)** allows for half story lofts as sometimes seen in Creole architecture (see Figure 3).

**Subsection (d)** excludes roofs without a common peak.

**Subsection (e)** allows dormers which may be either windows or doors.

Any loft meeting these criteria would qualify for exemption from criteria for the calculation of gross floor area as established in Article 26.

**Subsection 2** exempts the floor area of a loft from the calculation of gross floor area. This allows architects to design the main floors of the building according to the FAR limits without worrying about the how much floor space would be taken up by a loft. It incentivizes taller roofs characteristic of New Orleans historic architecture because the draft CZO counts attic floor space in the gross floor area if the attic allows more than 7 feet of headroom. It incentivizes pitched roofs that cover the entirety of the top floor which would otherwise count in the calculation of gross floor area.

Amendment: Article 26. Loft. A room, storage area or the like within a sloping roof. (Source: Random House Webster's College Dictionary, Random House, New York, 1991)

Note: This is the proposed amendment to Article 26.

**Amendment: 10.3.E. Loft Exemption**

Within zoning districts HMC-1, HMC-2 and HM-MU, new construction may include a loft as specified in Article 26.

10.3.E.1. Lofts must meet the following criteria:

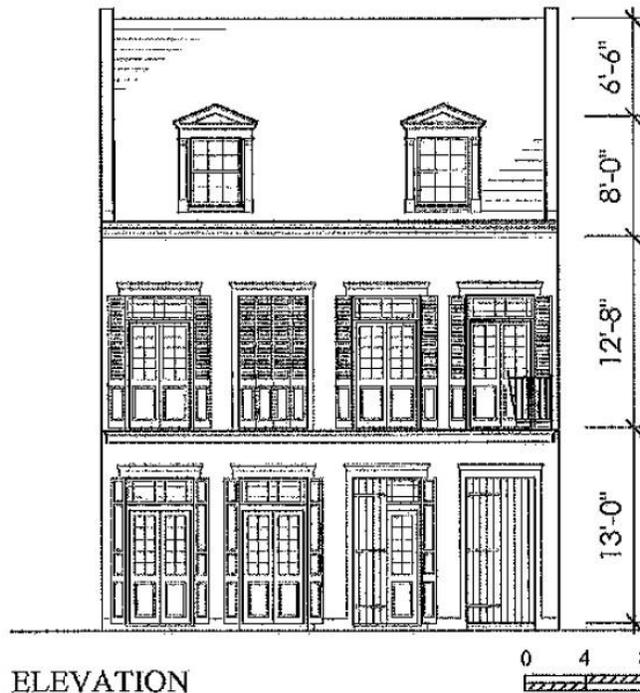
- a. The slope of the roof may not be less than 4:12 or greater than 12:12 (slope=rise/run).
- b. Roof forms must be consistent with the design of the building's façade.
- c. The floor of the loft may not be more than 5 feet below the eaves of the roof.
- d. Mansard roofs are not allowed.
- e. Lofts may include dormers

10.3.E.2. For the purposes of the loft exemption only, lofts are exempt from Article 26. Gross Floor Area. Sections A.5, A.9, A.12.

Figure 1. A traditional New Orleans Creole townhouse with a loft.

# CREOLE TOWNHOUSE

## 4-BAY DOUBLE PARLOR



Source: Toledano, Roulhac B., A Pattern Book of New Orleans Architecture. Pelican Publishing Company, Gretna, Louisiana. 2010.

Figure 2. Conventional roof slopes as allowed under the loft exemption.

## Roof slopes

slope=rise/run

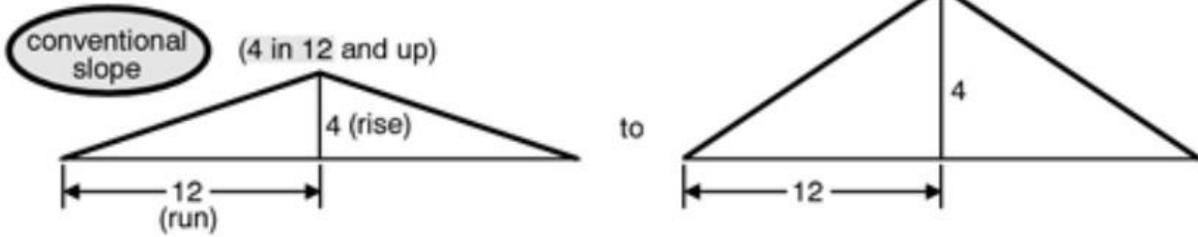


Figure 3. A traditional Creole townhouse with a half-story loft as allowed under the loft exemption.



**Table 10.1: Hotels**

Rationale: Hotels are very intensive use businesses and residents should be informed and have an opportunity for input before a new hotel is allowed to open in an Historic Core Neighborhood.

Amendment: *Table 10.1:* Change hotel from permitted to conditional use in HMC-2

**Table 10.1: Restaurants**

Rationale: Restaurants are very intensive use businesses and residents should be informed and have an opportunity for input before a new restaurant is allowed to open in an HMC-1 zoning district.

Amendment: *Table 10.1:* Change standard restaurant from permitted to conditional in HMC-1

**Table 10-2: Floor Area Ratio**

Rationale: HM-MU is a more intensive zoning district than HMC-2 and therefore HMC-2 should not have a higher floor area ratio.

Amendment: *Table 10-2:* Change Max FAR HMC-2 to 2

**Article 10.7.B: Engage the Neighborhood**

Rational: Businesses are traditionally located on the ground floors of buildings in the Creole Faubourgs with doors that open to the public streets. Allowing businesses to open to a private street within a development makes those businesses separate from the neighborhood and exclusive, as if they have turned their backs on the residents.

Amendment: *10.7.B:* delete “*or private street*”

**Article 10.7.C: Uniform First Floor Ceiling Heights**

Rationale: Streetscapes within the Creole Faubourgs feature a common element of projecting features at approximately 15 above the level of the sidewalk. For all new construction that is built at grade or at grade plus 1 foot, the first floor of the building should have 14 foot ceilings to encourage continuity of that architectural element.

New Orleans historic architecture was built with high ceilings to encourage air circulation. Ceiling heights are rarely less than 12 feet in our historic neighborhoods. Ceiling height within a structure determines the vertical distance between floors and affects the external character of building by allowing for taller windows and more space above balconies and galleries. Thus, ceiling heights of at least 12 feet should be required in Historic Core neighborhoods.

Amendment: *10.7.C:* *For all new construction, the first floor of the building shall have a minimum ceiling height of 14 feet and any upper floors, excluding lofts compliant with section 10.3.E., shall have a minimum ceiling height of 12 feet.*

### **Article 10.7.C: Balconies and Galleries**

Rationale: Modern building styles often isolate balconies and galleries to the individual dwelling units to provide added security and privacy to their tenants. This creates short, disconnected balconies and galleries that appear to pop out of the building (see Figure 4). In the worst cases, the buildings look like a bank of file cabinets with some of the drawers open. This is a foreign element to traditional Creole architecture which features balconies and galleries that are contiguous across the face of the building (see Figure 5).

When multiple dwelling units share a common balcony or gallery, the tenants get to know their adjacent neighbors which builds community and cooperation and reduces quality of life complaints. After all, it's harder to blast your disco at 3:00 am when you know the people living on the other side of the wall.

Amendment: *10.7.C: Balconies and galleries shall extend across the width of the building's façade without interruption.*

Figure 4. Discontiguous balconies as often seen on modern structures.

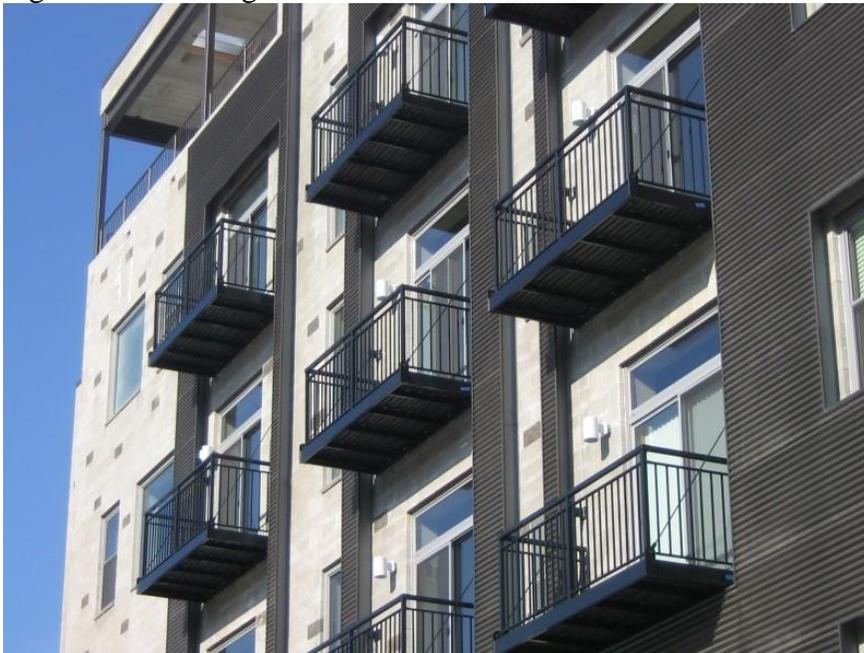


Figure 5. Contiguous balconies characteristic of New Orleans historic architecture.



**Article 10.8.I: Variances**

Rationale: Any variance from the provisions of Article 10 is subject to conditional use. This allows flexibility in exceptional circumstances, but deters deviations from zoning standards.

Amendment: 10.8.I.: *Requests for variance from the provisions of Article 10 shall be considered and approved through the conditional use process provided in Section 4.3.*

# Article 18

## **Article 18.13.B: Public Input**

Rationale: Large developments have the potential to substantially alter the urban fabric of the surrounding neighborhood. Therefore, any new construction or new addition to an existing building with greater than 10,000 square feet of floor space should be subject to the conditional use process. The conditional use process ensures that the public is informed of large proposed developments and have the opportunity to express their support for or concerns with the project.

Amendment: 18.13.B: add, “*Any new construction or addition to an existing building with greater than 10,000 square feet of floor space shall be considered and approved through the conditional use process provided for in Section 4.3.*”

## **Article 18.13.C: Storm Water Management**

Rationale: Large new construction could generate substantially more runoff into the storm sewer system leading to potential flooding in the surrounding neighborhood. New construction should incorporate storm water management features into their design.

Amendment: 18.13.C.: *Any new construction or addition to an existing building with greater than 10,000 square feet of floor space shall incorporate storm water management features wherever possible.*”

## **Article 18.13.F.8.: Major Corridors**

Rationale: The streets that run parallel to the Mississippi River are major thoroughfares within the Riverfront Overlay district and need special designation to protect their streetscapes. These streets are no wider than the streets within the neighborhood core and should therefore be subject to restrictions that ensure that residences across the street are not adversely affected by their development. The provisions for the major corridors also create a diverse visually appealing streetscape.

Subsection (a) specifies which streets within the Riverfront Overlay qualify as major corridors. Tchoupitoulas Street is not included since it is wider than the other streets cited.

Subsection (b) states that the following provisions only apply to buildings greater than three stories. This allows rows of two story townhouses, but requires that 3 story buildings be spaced apart to allow sunlight and breezes through to the street below.

Subsection (b.3) allows views of the city from the river side of the floodwall/levee.

### Amendment: 18.13.F.8. Major Corridors:

*a. The following streets shall be designated as major corridors within the Riverfront Overlay: Chartres Street, North Peters Street, Decatur Street, Brooklyn Street, Religious Street, Race Street and South Peters Street.*

*b. Any building greater than 2 stories shall comply with the following standards:*

- 1. No building may be more than 1.5 times wider than its height.*
- 2. The narrow side of the building must face a major corridor.*

3. *Buildings on lots that abut the floodwall/levee must have the narrow side of the building face the Mississippi River.*
4. *Buildings must have a side yard of no less than six feet.*

#### **Article 18.13.F.9.: Parking Lots**

Rationale: The Historic Core Neighborhoods are characteristic of the 19<sup>th</sup> century when there were no parking lots. Large parking lots inhibit walking by creating an uninteresting and automobile oriented streetscape. Therefore, all surface parking lots should be hidden within the centers of blocks. Multistory parking structures should be camouflaged with commercial space on the street level and upper stories should be masked by architectural details that resemble residential buildings.

Amendment: 18.13.F.9: *Surface parking lots shall be located within blocks so as to be hidden from view at the street level. Multistory parking structures must incorporate retail at the street level and include facades that resemble residential housing as compliant with Article 18, Section F.4.*

#### **Article 18.13.F.11.: Transparency**

Rationale: Traditional Creole architecture did not have glass fronts. Instead, display windows were located between structural elements of the building. To preserve vernacular Creole architectural forms, transparency should be limited.

The historic architecture of New Orleans' Creole Faubourgs feature shutters on the windows (see Figure 1). The windows are spaced so that the shutters can be opened and held back against the building without touching an adjacent shutter. To promote the inclusion of this aspect in new construction, we should not allow any window to be closer than half its width to an adjacent window.

Amendment: 18.13.F.11: *Building transparency on any story shall not exceed 60%. No window shall be closer to an adjacent window located on the same story of a building than one half of its width.*

#### **Article 18.13.G.: Height and Density Bonuses**

Height Bonuses: The residents of the Historic Core Neighborhoods have overwhelming expressed their desire to keep all new construction within their neighborhoods in scale with historic precedent. A review of public comments submitted to the City Planning Commission and made available on the City Planning Commission website shows that of the 571 comments received in 2013 and 2014, 98% of residents are opposed to the height bonuses included in the Riverfront Overlay (Article 18, Section 13.G.). Again, that's **98% Opposed to the height bonuses!**

Energy Efficiency and Public Plazas: In exchange for the proposed height bonuses, developers would have to meet energy efficiency standards and provide a public plaza. While residents are not opposed to energy efficient buildings or public plazas, we consider both of those provisions to be private goods and not public goods. Energy efficiency standards lower the

operating costs of the building and pay for themselves over the life of the building. Those energy savings benefit the building owners and not the public. Commercial plazas draw customers to the businesses adjacent to the plaza, thus allowing the building's management to charge more for the building's commercial space. This is incentive enough for building public plazas.

Access to the River: Another requirement for the height and density bonuses is improved public access to the Mississippi River. The riverfront in Algiers Point is not blocked by either a floodwall or railroad tracks so this provision does not apply. In Bywater and Marigny, it is highly unlikely that any development will build a bridge across the floodwall and railroad tracks. This leaves only street level crossings at the floodgates as viable alternatives. Allowing access to the Crescent Park through the floodwall gates requires approval from railroads and the Army Corps of Engineers. That is a political process and not something that developers can determine or should control. Those entry points are public streets, not private rights of way.

Affordable Housing: Our riverfront neighborhoods value diversity in our communities. We support affordable housing and want to incentivize it in our neighborhoods, but the affordable housing provision of the Riverfront Overlay is too generous to developers and provides too little affordable housing. Therefore, we propose that the gateway section of the Riverfront Overlay (18.13.G.) be replaced in its entirety with language modified from the affordable housing density bonus contained in Article 17.H.

Amendment: 18.13.G.: Strike in its entirety and insert in lieu thereof:

### **Article 18.13.G.: Affordable Housing**

Rationale: To promote more economically inclusive neighborhoods, the provisions from Article 17, Section H have been adapted to be applicable to all new multi-family developments in the Riverfront Overlay. In addition to the floor area bonuses provided for in Article 17, Section H, developers should be compensated for the number of units devoted to affordable housing with an equal number of additional units (see subsection 1.e.). This provision eliminates the opportunity cost of dedicating some of the limited dwelling units to affordable housing.

### **Amendment: 18.13.G. Affordable Housing Floor Area and Density Bonus**

#### ***1. Affordable Housing Public Benefit Formula***

*Floor area bonuses for the provision of affordable housing are to be based on the following:*

- a. Any residential or mixed-use development with at least five percent (5%) of its dwelling units reserved as affordable for households with incomes equal to or below thirty percent (30%) of area median income (AMI) may be awarded an FAR bonus of ten percent (10%).*
- b. Any residential or mixed-use development with at least five percent (5%) of its dwelling units reserved as affordable for households with incomes equal to or below fifty percent (50%) of area median income (AMI) may be awarded an FAR bonus of ten percent (10%).*
- c. Any residential or mixed-use development with at least five percent (5%) of its dwelling units reserved as affordable for households with incomes equal to or below eighty percent (80%) of area median income (AMI) may be awarded an FAR bonus of ten percent (10%).*

*d. The bonuses in Sections 17.5.H.1.a., 17.5.H.1.b., and 17.5.H.1.c. above may be combined. The maximum bonus that may be obtained in a single development is equal to thirty percent (30%) of the base Floor Area Ratio.*

*e. In addition to the floor area bonuses as specified in Article 17, Section H.1, developers may increase the total allowed number of dwelling units as provided for under the minimum lot area shown in Table 10-2 by the total number of dwelling units reserved for affordable housing. For example, if a development is limited to 100 dwelling units and 15 are reserved for affordable housing, the Affordable Housing Density Bonus would be 15 units for a total of 115 units. The total Affordable Housing Density Bonus shall not exceed 15% of the total allowed number of dwelling units as provided for under the minimum lot area shown in Table 10-2.*

## **2. Affordable Housing Standards and Guidelines**

*a. Area median income (AMI) is determined annually by the United States Department of Housing and Urban Development. A dwelling unit is affordable if the gross rent of the unit does not exceed thirty (30) percent of the income limitation applicable to the unit.*

*b. The income and rent restrictions necessary to meet the affordability criteria for the bonus FAR shall be maintained for a minimum period of thirty (30) years. A document indicating the agreement of the applicant to comply with this requirement shall be recorded together with the bonus FAR worksheet and approved final development plan in accordance with Section 17.5.A.2. City of New Orleans 17 - 15 Article 17 Comprehensive Zoning Ordinance CITY COUNCIL REVIEW DRAFT, SEPTEMBER 2014 Central Business District*

*c. The affordable dwelling units shall be located within the same structure as the market-rate dwelling units in the development.*

*d. The affordable dwelling units shall be spread throughout the development and not concentrated on one story or in one area of the structure in which they are located.*

*e. The affordable dwelling units shall be comparable to market-rate dwelling units in the development in terms of floor area, number of bedrooms, and exterior finishes. The structure in which affordable units are located shall not be designed in a manner that distinguishes the location of affordable units from market-rate units.*

# Article 16

## **Table 16-1: Cruise Ship Terminals**

Rationale: Cruise ship terminals are an extremely intensive use that must be very carefully planned and executed to minimize their impact on the quality of life in the surrounding neighborhoods. Cruise ship terminals generate huge amounts of traffic and sewage, use huge amounts of water and electricity, and encourage tourist intrusion into nearby residential areas. Residents must be informed of all technical aspects of any proposed terminal and allowed a chance to provide substantive input on the design, construction, operation and infrastructure requirements of any new cruise ship terminals.

Amendment: *Table 16-1*: change passenger terminal from permitted to conditional in Marine Industrial (MI) zones.