



REFERRAL REPORT

Report Date: May 12, 2020
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Meeting Date: May 27, 2020

TO: Standing Committee on Policy and Strategic Priorities

FROM: General Manager of Planning, Urban Design and Sustainability

SUBJECT: Regulation Redesign - Amendments to Zoning & Development and Parking By-laws

RECOMMENDATION

- A. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Zoning and Development By-law, generally as presented in Appendix A to:
- (i) add definition to section 2 for unnecessary hardship;
 - (ii) reorganize and update sections 3, 4, and 5 to:
 - a. consolidate authorities, administration of development permits and regulations regarding relaxations and use of discretion into discrete sections;
 - b. clarify conditions for Development Permit Board review of development permit applications;
 - c. allow both the Director of Planning and Development Permit Board authority to relax the by-law for unnecessary hardship, as defined in section 2;
 - (iii) subject to approval of A(ii) (a) update references to sections 3, 4, and 5 throughout the by-law;
 - (iv) correct terminology related to the application of relaxations and discretion throughout the by-law and move regulations to the appropriate section of the district schedules;
 - (v) update section 10.6 Character House to consolidate regulations that enable the variation of regulations for the retention of a character house;

and that the application be referred to a Public Hearing;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix A, for consideration at Public Hearing.

- B. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Zoning and Development By-law, generally as presented in Appendix B to:
- (i) add definitions to section 2 for awning, balcony, enclosed balcony, deck, roof deck, canopy, covered entry, porch and verandah, and patio;
 - (ii) subject to the approval of B(i), update language throughout the by-law to reflect the new defined terms and to improve consistency of terminology;
 - (iii) in section 10, increase the permitted projection of balconies on multiple dwellings into a required yard from 1.2 m to 1.8 m to provide more flexibility;
 - (iv) update and improve the consistency of regulations for balconies and decks by:
 - a. applying the floor area exclusion for balconies and decks to non-residential uses, as well as residential uses;
 - b. introducing a floor area exclusion for balconies and decks of 8% in the RA-1 district and for dwellings other than multiple dwellings in the RM-4 and RM-4 districts and an exclusion of 12% for multiple dwellings in the RM-4 and RM-4N districts;
 - c. increasing the amount of floor area excluded for balconies and decks from 8% to 12% in the I-1, I-1A, I-1B, I-4, IC-1, IC-2, M-1, M-1A, M-1B and M-2 districts and for multiple dwellings in the RM-1, RM-1N, and RM-2;
 - (v) update and improve the consistency of regulations and for covered porch, entry and verandah by:
 - a. allowing a covered porch, entry and verandah to project into a front yard by up to 1.8 m for any dwelling unit in most RA, RS, RT, and RM districts;
 - b. excluding floor area under a covered entry, porch and verandah if it is less than 2.0 m in height, not heated, and there is no access from the interior of the building, in the RA, RS, RT, RM and FSD districts; and
 - c. introducing a combined floor area exclusion of 13% for covered porch, entry and verandah, balcony, and deck for all dwelling types in the RA, RS, RT-1, RT-2, RT-5, RT-5N, RT-6, RT-9, RM-3 and RM-3A districts;
 - d. introducing a combined floor area exclusion for covered porch, entry and verandah, balcony, and deck of 13% for dwellings other than multiple dwellings and 16% for multiple dwellings in the RM-1, RM-1N, RM-2, RM-4, RM-4N, districts; and
 - e. introducing a combined floor area exclusion for covered porch, entry and verandah, balcony, and deck of 16% in the RM-5, RM-5A, RM-5B, RM-5C and RM-5D districts;
 - (vi) make various housekeeping amendments to correct references and errors in numbering and spelling;

and that the application be referred to a Public Hearing;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix B, for consideration at Public Hearing.

- C. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Central Waterfront Official Development Plan to correct terminology related to the application of relaxations and discretion, generally in accordance with Appendix C;
- and that the application be referred to a Public Hearing;
- FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix C, for consideration at Public Hearing.
- D. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Coal Harbour Official Development Plan to correct terminology related to the application of relaxations and discretion, generally in accordance with Appendix D;
- and that the application be referred to a Public Hearing;
- FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix D, for consideration at Public Hearing.
- E. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Downtown Official Development Plan to update terms for balcony, porch, deck, roof deck, to apply the floor area exclusion for balconies and decks to non-residential uses, as well as residential uses, and to correct terminology related to the application of relaxations and discretion generally in accordance with Appendix E;
- and that the application be referred to a Public Hearing;
- FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix E, for consideration at Public Hearing.
- F. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Downtown Eastside/Oppenheimer Official Development Plan to update terms for balcony, porch, deck, roof deck, to apply the floor area exclusion for balconies and decks to non-residential uses, as well as residential uses, and to correct terminology related to the application of relaxations and discretion generally in accordance with Appendix F;
- and that the application be referred to a Public Hearing;
- FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix F, for consideration at Public Hearing.
- G. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the False Creek Official Development Plan to correct terminology related to the application of relaxations and discretion, generally in accordance with Appendix G;

and that the application be referred to a Public Hearing;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix G, for consideration at Public Hearing.

- H. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Southeast Granville Slopes Official Development Plan to update terms for balcony, porch, deck, roof deck and to apply the floor area exclusion for balconies and decks to non-residential uses, as well as residential uses, and to correct terminology related to the application of relaxations and discretion, generally in accordance with Appendix H;

and that the application be referred to a Public Hearing;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix H, for consideration at Public Hearing.

- I. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to amend the Parking By-law to make various housekeeping amendments to correct references, generally in accordance with Appendix I;

and that the application be referred to a Public Hearing;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix I, for consideration at Public Hearing.

- J. THAT the General Manager of Planning, Urban Design and Sustainability be instructed to make application to:
- (i) subject to approval of A(i), amend several land use documents to update terms, in accordance with Appendix J; and
 - (ii) make housekeeping amendments in various land use policy documents, in accordance with Appendix K.

And that the application be referred to a Public Hearing.

REPORT SUMMARY

The proposed amendments are recommended as part of work on the Regulation Redesign project to update and simplify the City's land use regulations and related land use documents, and make them more user-friendly. In combination with permit processing improvements these amendments will help to simplify, clarify, and streamline permit review. These initiatives support recovery efforts as simplified and more consistent regulations and processes will contribute to accelerating economic activity.

This report recommends various amendments to the Zoning and Development By-law (the by-law) and several Official Development Plans (ODPs) to:

- consolidate and update regulations in sections 3, 4, and 5 on authorities, administration of development permits and relaxation and discretion into discrete sections, clarify when the Development Permit Board reviews development applications and update relaxation authorities to allow both the Director of Planning and Development Permit Board to relax for unnecessary hardship;
- add a new definition for unnecessary hardship;
- correct terminology related to the application of relaxations and discretion throughout the by-law and move regulations to the appropriate section of district schedules;
- update section 10.6 Character House to consolidate regulations that enable the variation of regulations for the retention of a character house;
- introduce definitions for awning, balcony, enclosed balcony, deck, roof deck, canopy, covered entry, porch and verandah, patio and update terms throughout the by-law (and various land use documents);
- update and improve consistency of regulations for decks, balconies and covered entries, porches and verandahs; and
- make various housekeeping amendments to correct references and errors in numbering and spelling.

The report also recommends housekeeping amendments to the Parking By-law to correct references and housekeeping amendments to various land use policy documents.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

On June 11, 2019 Council approved amendments to the Zoning and Development By-law to simplify and update regulations, including reformatting Sections 2, 10 and 11 of the by-law and replacing gendered terminology with gender neutral language and repealed several outdated land use documents.

On July 17, 2018 Council approved amendments to the Zoning and Development By-law to simplify and update regulations including updating intent statements in RS districts, eliminating the 2-person occupancy limit for Residential Unit Associated with an Artist Studio, providing more flexibility for work-only Artist Studios to display and sell art produced in the studio, and updating references to Director of Planning and Development Permit Board Authority to clarify authority and provide more consistency and also repealed several outdated land use documents.

Section 565A of the Vancouver Charter authorizes Council to delegate to any official of the city or any board composed of such officials powers of discretion relating to zoning matters, and to make by-laws providing for the relaxation of provisions of a zoning by-law.

On May 17, 1956, Council enacted Zoning and Development By-law No. 3575.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

Regulation Redesign is a priority project (Goal 2B –Build and Protect the Vancouver Economy) in the City’s 2020 Corporate Plan and integral to efforts to support and enhance the Vancouver economy by improving the regulatory environment so as to improve permit processing. The key objectives of the project are to:

- simplify and clarify land use regulations to make them easier to understand and implement;
- modernize regulations and language and improve the format of land use documents to make them more user-friendly;
- improve the consistency of land use regulations and policies;
- improve communication about land use tools; and
- establish a robust and enduring land use framework.

This work is aligned with other projects to improve processes, including the Development Process Review and service improvements being coordinated by the Development, Buildings and Licensing Department.

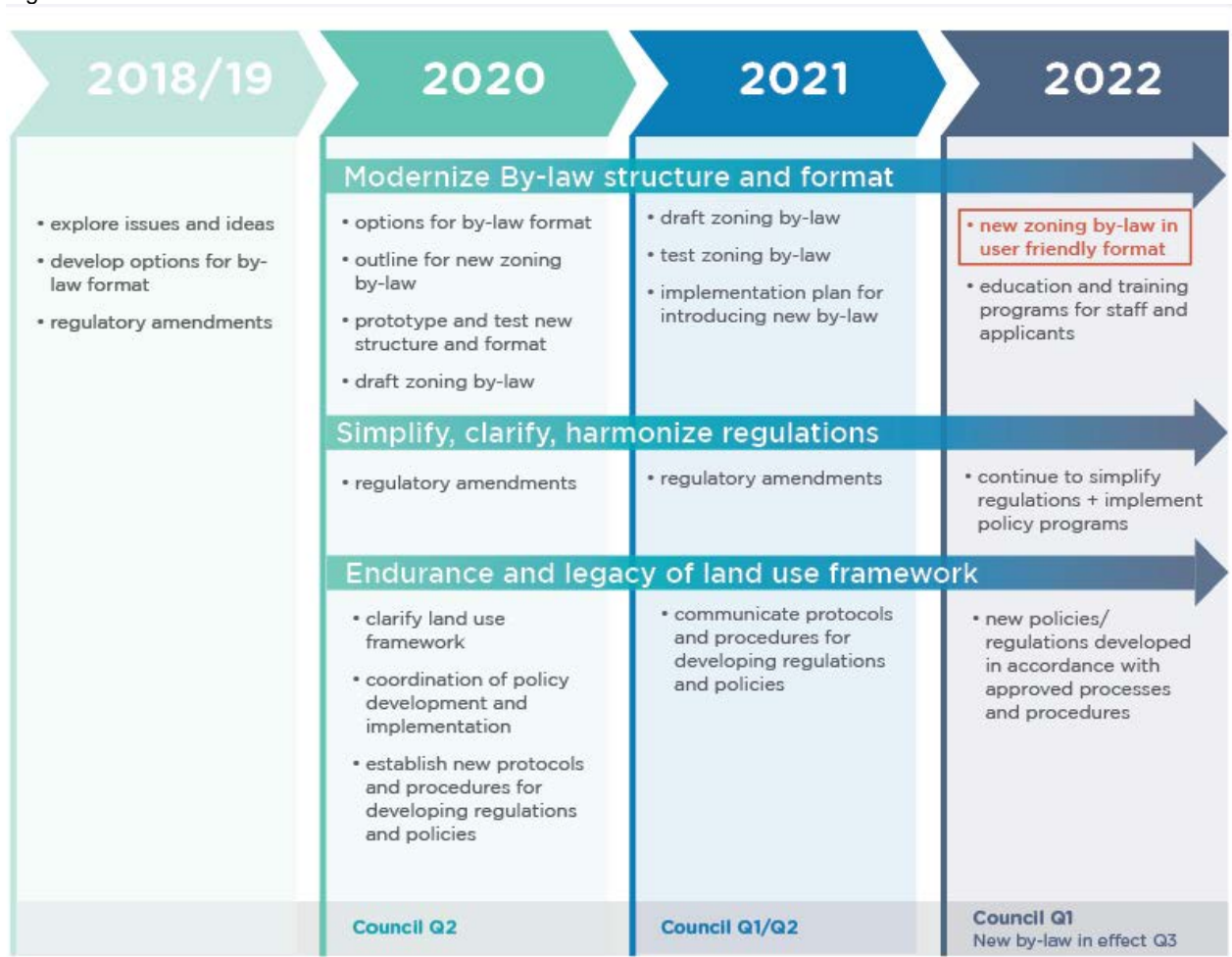
The 2018/19 work focussed on engagement with the development and building industry, other businesses and non-profit organizations, the public, and staff to understand issues and gather ideas for improvement of the City’s land use tools, and on developing options to address the issues. During that time regulatory amendments were brought forward to re-format sections 2, 10 and 11 of the by-law, simplify and clarify various regulations, remove gendered terms, and repeal outdated or superseded land use documents.

An on-line land use document library was also created to provide a single location to access the City’s numerous land use documents. This work consolidated documents from 60 web pages into one. A new naming convention for land use documents was introduced and work to update the information attached to existing documents to make them more searchable is underway. A user guide for the by-law was also introduced on the zoning web page.

Work Program 2020-2022

In 2019 the Regulation Redesign project was extended until December 31, 2022 to enable further work to meet project objectives. Figure 1, below, outlines the work program for 2020 to 2022.

Figure 1. Work Plan 2020-2022



The work for the next three years is organized into three groupings: modernize by-law structure and format; simplify, clarify and harmonize regulations; and endurance and legacy of land use framework. Each is described below:

a. Modernize by-law structure and format:

The outcome of Regulation Redesign will be a newly formatted Zoning and Development By-law that is more user-friendly and intuitive to use. The by-law will be introduced in 2022.

This work includes:

- (i) reorganizing the ‘upfront’ administrative sections of the by-law (sections 1 to 16) to consolidate regulations and information by topic, update language, and remove unused sections;
- (ii) highlighting the similarities and nuances of each district within their zoning families (or “zoning classifications” e.g. RM districts). One outcome could be summary pages for each zoning family to articulate the common intent and provide an overview of the districts. In addition, staff are exploring new naming

conventions that provide more information about the intended forms of development and uses, and revised intent statements to reflect this;

- (iii) reorganizing district schedule structure and format to better clarify intended land uses and form of development in the district, and to incorporate illustrations and table layouts to make regulations easier to find and understand;
- (iv) creating definitions for land use terms such as triplex, townhouse, and apartment to be able to clearly identify the specific multiple dwelling uses permitted in each district; and
- (v) creating new appendices, including a 'rules of measurement' appendix, to help explain how regulations are interpreted and applied. This would consolidate interpretive information into one appendix so it is easy to find and available to both staff and applicants, instead of inconsistently locating it in various bulletins and other documents.

This work will be done in consultation with industry, staff and the public through focus groups and other engagement opportunities. Staff are targeting fall 2021 to present a complete draft by-law for review and feedback by all stakeholders. Once feedback has been incorporated into the draft, the new by-law will be presented to Council in 2022 for approval. Staff will be developing options for introducing the reformatted by-law in the context of other by-law amendments being brought forward to implement various Council priorities.

Project staff will work with affected departments to co-develop an implementation plan for the new by-law. It will be rolled out once the new by-law is enacted and prior to it coming into effect. The implementation plan will include training, education, and communication materials to staff and applicants, updating of all City systems affected such as POSSE, and procedures for future amendments to the new by-law. More information on this will be provided as the work progresses.

b. Simplify, clarify and harmonize regulations:

This work will support the reformatting of the by-law by simplifying land use regulations, making them more consistent and consolidating them, where appropriate. Some regulatory amendments will be brought forward over the next two years, including the amendments in this report, while others will be brought forward in the new by-law in 2022 to limit the number of consequential amendments (e.g. through re-numbering) and to reduce the number of changes that applicants and staff need to adjust to.

Similarly, work is underway to update and improve Engineering tools and procedures, including those for regulating the use of streets associated with construction (e.g. street occupancy, lane use fees), and responding to and communicating shoring issues/failures. Amendments will be brought forward in separate reports later in 2020.

c. Endurance and legacy of land use framework:

Creating a robust and enduring land use framework that can adapt in the future is essential to ensuring that improvements to land use regulations, policies and procedures are sustained. This involves:

- clarifying the purpose and interrelationships of land use documents and introducing enhanced document templates and standards to increase the consistency;

- improving document record management and maintaining an up-to-date inventory and library of land use documents for both internal and external users;
- improving and clarifying procedures for creating and amending land use regulations and policies; and
- improving communication and training when land use regulations and policies are created or amended.

While this work is underway, advice and guidance is being provided to staff making changes to existing documents. This provides ongoing opportunities to prototype improvements to the templates and procedures. An internal web-based resource for staff in Planning, Urban Design and Sustainability (PDS) has been created to share these updates and provide other information and training related to the Regulation Redesign project.

Engagement

Building on the key ideas and issues identified during engagement in 2018 and Q1 2019, engagement in 2019 and Q1 2020 focused on options to simplify and clarify regulations and by-law format. This included ongoing exploration and discussion of options with the Regulation Redesign External Group (RREG), which includes 16 members representing development, design, building and non-profit sectors. Regulation Redesign also hosted several events including a workshop on simplifying floor area and height regulations, and focus groups to develop definitions for balconies, porches, etc. and improve the consistency of regulations (see summary in Appendices L and M).

In January and February 2020 an information session with small scale home builders and designers, 4 pop-ups, an open house and an online survey were held to receive comments on the amendments proposed in this report and to get ideas on how to reformat the by-law to make it more user-friendly. Over 180 people attended these events, including members of the building and design industry and residents. There was strong support for the proposed amendments and for focusing on simplifying and clarifying regulations. Directions for re-formatting the by-law included adding more tables and diagrams to help find and interpret information, improving the consistency of regulations and how they are organized, and using clear language. A detailed summary of engagement activities is included in Appendices L and M.

Strategic Analysis

Proposed Amendments to the Zoning and Development By-law:

1. Consolidate Authorities and Regulations on Application of Relaxations, Discretion and Development Permits

a. Consolidate Regulations in Sections 3, 4, and 5:

Sections 3 (Authorities), 4 (Development Permits), and 5 (Exemptions from Development Permit Requirement) of the by-law include clauses on authorities, administration of relaxation and discretion provisions in the by-law, and administration of and requirements for development permits. Currently, these clauses are spread across each of the three sections, making it confusing and challenging to find relevant information in one location.

To make the information easier to find and more intuitive, it is proposed that the authorities and regulations be reorganized into discrete sections based on topic, and that the title of Section 5 be revised to By-law Relaxations and Powers of Discretion to reflect the content (see Appendix A). Additionally, amendments to update references to these sections and to simplify and update language in each of the sections are proposed.

b. Clarify Review of Development Permits:

Both the Director of Planning and Development Permit Board (DP Board) have authority to administer development permits, as authorized in section 3 of the by-law¹. In many district schedules, the decision-making authority is given to both the Director of Planning and DP Board. For example, in section 4.6.2 of the RM-6 district, the Director of Planning or the DP Board, as the case may be, may vary the rear yard requirement.

Sections 3.3.3 and 3.3.4 of the by-law enable the Director of Planning to make the decision on behalf of the DP Board unless a proposed development would have a significant impact on the immediate environment. These provisions elevate development applications that, because of their potential impacts, warrant a review by the DP Board, while enabling the Director of Planning to more expediently review applications that do not. This is an efficient process that streamlines standard application review.

Amendments to the by-law (see Appendix A) are proposed to clarify the criteria for elevating development permit review from the Director of Planning to the DP Board. Where both the Director of Planning and the DP Board are given decision-making authority, the Director of Planning will administer the authority unless:

- (i) the proposed development would have a significant impact on the existing immediate environment;
- (ii) the proposed development would create traffic implications that could affect the general environment;
- (iii) the height or density of any proposed building would not be in keeping with the general building heights or density in the immediate environment;
- (iv) there may be possible significant buildings of heritage value on the site or in the surrounding area that may be adversely affected by the development;
- (v) the design is not of an acceptable standard and may adversely affect public amenity, in which case the Director of Planning may first request advice from the Urban Design Panel;
- (vi) the development is such that special public amenities could be considered for additional density or other special advantages;

¹ The DP Board is a panel of four senior staff members: the Director of Development Services; General Manager of Planning, Urban Design and Sustainability (Director of Planning); the General Manager of Engineering Services and the Deputy City Manager. As part of its consideration, the Board hears representations of the applicant as well as any other person interested in the application and consults with the Development Permit Board Advisory Panel.

- (vii) the proposed development could affect any public policy objectives, established or potential, including future transit locations and open space needs; or
- (viii) the public response to the application is such that review by the Development Permit Board is warranted.

This will replace the clauses currently in section 3 and will be located in the new section 4 Development Permits.

c. Clarify and Update Relaxation Authority:

(i) Relaxations for Hardship:

Section 3 of the by-law enables the DP Board to relax any regulation of the by-law where application of the regulation would result in unnecessary hardship.

The Director of Planning is currently enabled to relax regulations for unnecessary hardship in specific circumstances only (e.g. relax yard requirements to allow enhanced accessibility or relax site coverage to allow portables to be located on a school site). At present, in situations where unnecessary hardship is demonstrated but the Director of Planning does not have authority to relax the by-law to address it, the application is refused and then the applicant may apply to appeal the decision to the Board of Variance. If the Board supports the appeal, then a permit can be issued.² This adds a significant delay in processing applications where the Director of Planning supports the relaxation, but does not have the authority to relax the regulations and so must direct the applicant to appeal to the Board of Variance.

To streamline permit processing, it is proposed that the regulations be amended to enable the Director of Planning, as well as the DP Board, to relax any regulation of the by-law where application would result in unnecessary hardship. To support decision-making on relaxations for unnecessary hardship, it is proposed that the following definition for unnecessary hardship be added to section 2 (Definitions):

Unnecessary hardship means hardship that results from unique physical circumstances that are peculiar to the site and does not include mere inconvenience, preference for a more lenient standard or a more profitable use, or self-induced hardship resulting from the actions of the owner or applicant.

The proposed amendments, which will be contained in the new section 5 By-law Relaxations and Powers of Discretion, will simplify permit review and processing. Applications that are found not to demonstrate unnecessary hardship will continue to have the opportunity to appeal to the Board of Variance.

(ii) Update Terminology for Administration of Relaxations and Discretion:

² The current appeal fee is \$2,300 and the timing for an appeal to be heard is 4 to 6 months.

The Vancouver Charter enables the relaxation of zoning regulations for specific circumstances³. Any other variation of zoning regulations is enabled through powers of discretion approved by Council.

The terms 'relax' and 'vary' have been used interchangeably throughout the by-law, despite the different authorities to administer them. It is proposed that the terms be corrected throughout the by-law to reflect the appropriate authority (e.g. change 'relax' to 'vary' if the reason for the variation in regulation does not correspond to one of the five circumstances listed above).

In addition, section 5 of several district schedules lists regulations in that district schedule that may be relaxed for specific reasons. Many of these do not qualify as relaxations and it is proposed that these clauses be moved to the appropriate section of the district schedule. For example, section 5.5 'Relaxation of Regulations' of the RT-5 district schedule says the Director of Planning may 'relax' any of the external design regulations in section 4.17. In this case, 'relax' would be replaced by 'vary' and the clause moved to section 4.17 'External Design'. This will also improve clarity of the regulations by inserting the clause directly into the section of the district schedule it applies to.

Section 5 'Relaxation of Regulations' of the RS and RT-5, RT-5N and RT-6 district schedules includes a clause that enables the Director of Planning to vary specific regulations to accommodate the retention of a character house. The regulations that can be varied are numerous and differ according to the district schedule. To simplify and consolidate clauses that enable the variation of regulations for the retention of a character house, it is proposed the clauses in each of these district schedules be replaced with the following clause, which would be added to the existing Character House regulations in section 10.6 of the by-law:

10.6.1 If the Director of Planning first considers the intent of the relevant district schedule and all applicable policies and guidelines, the Director of Planning may vary the requirements in the appropriate district schedule, other than permitted use or permitted floor space ratio (unless otherwise authorized by the appropriate district schedule), where a character house is retained.

This would provide more consistency and make it easier to find the rules by locating them in one location in the by-law.

³ The Vancouver Charter enables a relaxation of the Zoning and Development By-law for:

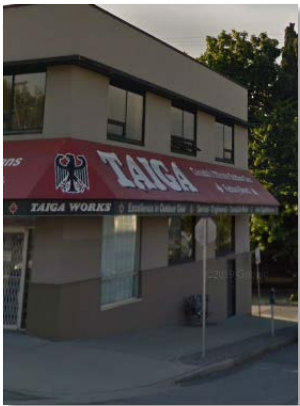

- unnecessary hardship
- conservation of heritage property
- provision of public space or amenities
- provision of low cost housing
- special events





2. Define and Improve Consistency of Regulations for Balconies, Porches and Decks



Based on the ideas and comments heard at the June 2019 workshop on ideas to simplify floor area and height regulations, including direction to focus on clarifying regulations and improving their consistency, staff worked on simplifying regulations for balconies, porches and decks. Regulations for porches, decks and balconies were identified as confusing: the terms are not defined, which makes interpretation of the regulations difficult; and the regulations for similar features are inconsistent between district schedules.

To help distinguish between these features, it is proposed that the following definitions be added to section 2 (Definitions) of the by-law. Each definition will be accompanied by an illustration to provide further clarification. The images provided below in Table 2 are shown as examples only. Terms throughout the by-law and other land use documents will be updated to reflect the defined terms (see Appendix B and Appendix J).

Table 2. Proposed Definitions

Term	Definition	
Awning	A semi-rigid or retractable framed structure that: <ul style="list-style-type: none"> (a) projects from a building face; (b) generally provides weather and shade protection; (c) is covered in a flexible material; and (d) is entirely supported by the building. 	
Balcony	A platform providing useable outdoor space that: <ul style="list-style-type: none"> (a) projects from a building or is recessed into a building; (b) is only accessed from within the building; (c) may be covered by a roof or floor above; and (d) is not enclosed, except for a required guard, or where it is recessed between adjacent walls. 	

<p>Enclosed Balcony</p>	<p>A platform that is enclosed on all sides to provide protection from weather or noise that:</p> <ul style="list-style-type: none"> (a) projects from a building or is recessed into a building; (b) is only accessed from within the building; and, (c) is not conditioned by heat or air conditioning. 	
<p>Canopy</p>	<p>A rigid, roof-like structure that:</p> <ul style="list-style-type: none"> (a) projects from a building face; (b) generally provides weather and shade protection; and (c) is entirely supported by the building. 	
<p>Deck</p>	<p>A platform providing useable outdoor space that:</p> <ul style="list-style-type: none"> (a) projects from a building and is generally supported on posts; (b) is accessed from within the building, and may also be accessed from grade; (c) generally has a surface height, at any point, greater than 600mm above grade; and (d) is not enclosed, except for a required guard. 	
<p>Entry, Porch and Verandah</p>	<p>A platform that is located at an entrance to a building, and that:</p> <ul style="list-style-type: none"> (a) projects from the building or is recessed into the building; (b) is covered by a roof or floor above to provide weather protection; (c) may be supported on posts; (d) is at grade or has stairs from grade; (e) is open, other than with a required guard, on at least one side. 	

Patio	A platform providing useable outdoor space that: (a) is not enclosed; and (b) generally has a surface height, at any point, no greater than 600 mm above finished grade.	
Roof Deck	A platform providing useable outdoor space that: (a) is located in such a way as to form a roof over an existing or proposed floor below; (b) is primarily accessed from within a building; (c) is not covered; (d) is not enclosed, except for a required guard, or where it is located next to a portion of the same building or an adjacent building; and (e) may include a garden or planted area.	

The following amendments to the regulations in the Zoning and Development By-law are proposed to provide more flexibility and improve the consistency of regulations. These amendments apply to buildings on private property, and do not apply to spaces on public property (e.g. sidewalk patios/amenity spaces).

a. Balconies and Decks:

(i) Increase permitted projections into yards for balconies:

Section 10 of the by-law allows balconies on multiple dwellings in any district to project into a required yard by 1.2 m. To enable more functional (deeper) balconies, it is proposed that this be increased to 1.8 m. Corresponding amendments are proposed for section 4.10.5 of various district schedules to clarify that balconies that project into a required front yard are not included in calculations for daylight access, in keeping with current practice.

(ii) Exclude floor area for balconies and decks for non-residential uses:

In calculating the permitted floor area of a building certain features may be excluded from the calculation as a way to encourage them (e.g. balconies and decks). The amount of floor area that can be excluded may be limited to a certain percentage and/or conditions may be applied.

In most district schedules balconies (and, in residential districts, decks) are excluded from floor area calculations for residential uses. Only a few of the more recently updated industrial and commercial district schedules also exclude balconies for non-residential uses. Many businesses in the industrial and commercial districts would like to provide outdoor amenity space for employees in the form of balconies and decks. To better enable the provision of these spaces and to improve consistency across district schedules, it is proposed that:

- decks as well as balconies be excluded from floor area in the commercial and industrial districts; and
- balcony and deck exclusions be applied to all uses, including non-residential uses, in all districts.

(iii) Improve the consistency of the amount of floor area that can be excluded for balconies and decks:

Newer commercial and industrial district schedules allow up to 12% of the permitted floor area to be excluded for balconies and decks, while older district schedules allow up to 8% to be excluded. To improve consistency and the opportunity to provide these features, it is proposed that the exclusion be increased from 8% to 12% in the following commercial and industrial districts: I-1, I-1A, I-1B, I-4, IC-1, IC-2, M-1, M-1A, M-1B and M-2.

In residential districts, it is typical to exclude up to 8% of floor area for balconies and decks for single family and duplex dwellings, and up to 12% for multiple dwellings. The rationale for the smaller exclusion for single family and duplex dwellings is that there is greater opportunity for at-grade outdoor space. To improve consistency across district schedules, it is also proposed that the exclusion be increased from 8% to 12% for multiple dwellings in the RM-1, RM-1N, and RM-2 districts, and that floor area exclusions for single family/duplex dwellings and multiple dwellings be introduced in the RM-4 and RM-4N districts, at 8% and 12% respectively.

No change is proposed to the amount of floor area that can be excluded for balconies and decks in districts that also exclude enclosed balconies from floor area. This includes many commercial districts and a few multiple dwelling districts. In those districts up to 8% of floor area can be excluded for open balconies and of that, up to 50% of the excluded balcony area may be enclosed (for residential uses only).

The enclosed balcony provisions have been in place for many years. The intent was to allow for year round use of a balcony by allowing for removable enclosures for weather protection. However, these spaces have more typically become fully enclosed interior living spaces, even though they are not counted as floor area. Recent changes to the Building By-law have clarified that enclosed balconies are intended for outdoor use and that they cannot be heated or air conditioned.

Newer district schedules allow more floor area to be excluded for balconies (up to 12% instead of 8%) in lieu of an exclusion for enclosed balconies. Enclosed balconies can be built, but they are counted as floor area. To ensure consistency with this, in the districts that currently allow enclosed balconies to be excluded

from floor area the balcony exclusion will remain at 8%. As future amendments are made to the Building By-law to address energy efficiency requirements enclosed balcony regulations will be further examined.

b. Covered Entries, Porches and Verandahs:

- (i) More consistent regulations for covered entry, porch and verandah projections into a front yard:

Covered porches are currently permitted to project into a required front yard in most district schedules, although the distance they can project varies, with the most typical being 1.8 m. The permitted projection encourages the provision of a covered entry by not requiring it to be entirely located within the permitted building depth. As covered porches are also interpreted to include more modern covered entries and traditional verandahs, the terms have been combined to clarify this.

To improve the consistency across district schedules and the opportunity to provide a covered entry, porch or verandah, the following amendments are proposed:

- a permitted projection of 1.8 m be introduced in the RA-1, RT-1, RT-2, RT-4, RT-7, RT-8, RT-9, RM-2, RM-3, RM-3A, RM-4 and RM-6 districts;
- the permitted projection be revised to 1.8 m in the RS-6, RT-6, RT-10, RM-1, RM-9, RM-9A, RM-9N, RM-9AN, RM-9BN, RM-10, RM-10N, RM-11, RM-11N and RM-12N districts; and
- the permitted projection be applied to any dwelling unit (not just duplexes) in the RS-1A, RS-1B, and RS-2 districts.

- (ii) Exclude floor area under covered entries, porches and verandahs

Floor area located under a raised covered entry, porch or verandah is currently counted in floor area if there is any access to it. This is due to concern that it could be used as living space. However, these spaces are well suited for storage (e.g. bikes, garden tools). To provide more opportunity to use this space for storage it is proposed that it be excluded from floor area calculations in all residential districts and the First Shaughnessy District, if the space under the covered entry, porch or verandah is less than 2.0 m in height, is not heated, and there is no access from the interior of the building (i.e. there is an exterior door only).

- (iii) Combine floor area exclusions for covered entries, porches and verandahs and balconies and decks

Currently the maximum percentage of floor area exclusion that may be excluded for covered entries, porches and verandahs varies by district and form of dwelling. For example, in the RS districts, the exclusion is 5% of permitted floor area for single family dwellings, but for duplexes the exclusion is combined with the 8% balcony and deck exclusion for a total of 13%. The combined exclusion provides more flexibility for an applicant to decide how to allocate these spaces. This would enable more covered porch, entry and verandah space, in lieu of

deck and balcony space, if desired (the balcony and deck exclusion remains at 8%).

To provide more consistency and flexibility it is proposed that the floor area exclusion for a covered entry, porch and verandah be combined with the exclusion for balconies and decks to a maximum of 13% for all dwelling types in the RA, RS, RT-1, RT-2, RT-5, RT-5N, RT-6, RT-9, RM-3 and RM-3A districts.

Newer multiple dwelling (RM) district schedules provide a combined floor area exclusion of 13% for single family dwellings and duplexes and 16% (in combination with a 12% exclusion for balconies and decks) for multiple dwellings. To provide more flexibility and consistency across district schedules it is proposed that these floor area exclusions also be applied in the following districts: RM-1, RM-1N, RM-2, RM-4, and RM-4N. In the RM-5, RM-5A, RM-5B, RM-5C and RM-5D districts it is proposed that a combined floor area exclusion of 16% (in combination with a 12% exclusion for balconies and decks) be introduced.

c. Update terms

In addition to updating the by-law to reflect the new definitions for balconies and decks etc., minor amendments are also proposed to update other terms to provide more consistency and clarity:

- replace 'partial walls' and 'guard rails' with 'guards' to align with the Building By-law; and
- for the implementation of patio and roof deck exclusions, replace the phrase "provided the Director of Planning first approves the design of sunroofs and walls" with "provided the Director of Planning considers the effect on privacy and overlook" to clarify the issues being considered in the review process and reflect current practice.

d. Update information on interpretation and administration of regulations

To assist with explaining how regulations on balconies, decks, etc. are interpreted and applied a bulletin will be published and available on the document library on the City's zoning web page. It will provide responses to frequently asked questions and illustrations to assist both applicants and staff. It is anticipated that this information will eventually be incorporated into the updated by-law as a new appendix called "Rules of Measurement". This appendix will be a compendium of various interpretive notes and administrative bulletins that explain in plain language how regulations are administered and calculated.

3. Housekeeping Amendments

Various miscellaneous housekeeping amendments are also proposed:

- a. to the Zoning and Development By-law to correct spelling, section references and numbering errors (see Appendix B);
- b. to the Parking By-law to correct references (see Appendix I);

- c. to the Heritage Incentive Program Policies and Procedures to correct a spelling error (see Appendix K);
- d. to the Childcare Design Guidelines to correct errors in metric to imperial conversions and make various housekeeping amendments (see Appendix K); and
- e. to the Rezoning Policy for Sustainable Large Developments to update professional requirements to provide clarity and consistency with other land use documents and housekeeping (see Appendix K).

Implications/Related Issues/Risk

Financial

The proposed amendments will clarify regulations and review processes and will not result in any financial impact to the City. Amendments to allow the Director of Planning to relax for unnecessary hardship will streamline review processes and reduce costs for applications where there is unnecessary hardship as it will no longer be necessary to appeal to the Board of Variance.

CONCLUSION

This report recommends amendments to the Zoning and Development By-law, Parking By-law, various official development plans and land use documents to consolidate regulations, clarify them, and improve their consistency. These proposed changes respond to issues and ideas to simplify land use regulations identified by applicants and staff. They will result in regulations that are easier to understand and help to streamline permit review.

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