

BY-LAW NO.

**A By-law to amend
CD-1 (66) By-law No. 4539**

1. This By-law amends the indicated provisions of By-law No. 4539.
2. In section 2, Council strikes out “and the only uses permitted within the said area and the only uses for which development permits will be issued are a bank, restaurant (excluding drive-in with or without car service or take out food service), professional offices; recording studio, industrial laboratory, retail. stores including a drug store, marine accessory distributor and sales, subject to such conditions as Council by resolution may prescribe,” and substitutes “.”.
3. Council renumbers section 3 as section 10, and adds new sections 3 to 9 as follows:

“Definitions

3. Words in this By-law have the meaning given to them in the Zoning and Development By-law, except that:
 - (a) for the purposes of calculating the total dwelling unit area for section 5.1 of this By-law, “Dwelling Unit Area” is the floor area of each dwelling unit, measured to the inside of all perimeter walls, excluding any floor area as required by section 6.5 of this By-law; and
 - (b) “Below Market Rental Housing Units” means dwelling units where the rents are set at rates no higher than the shelter component of income assistance, below Housing Income Limit (HILs) levels, or within a prescribed amount at, above or below city-wide CMHC average rents, all as secured by a housing agreement registered on title to the property.

Uses

4. Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this By-law or in a development permit, the only uses permitted within CD-1 (66) and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:
 - (a) Dwelling Uses, limited to Dwelling Units in conjunction with any of the uses listed in this section;
 - (b) Cultural and Recreational Uses;
 - (c) Institutional Uses;

- (d) Office Uses;
- (e) Retail Uses;
- (f) Service Uses; and
- (g) Accessory Uses customarily ancillary to the uses permitted in this section.

Conditions of Use

- 5.1 A minimum of 20% of the total dwelling unit area must be below market rental housing units.
- 5.2 The design and layout of at least 35% of the total number of below market rental housing units and at least 35% of the total number of other dwelling units must:
 - (a) be suitable for family housing; and
 - (b) include two or more bedrooms.
- 5.3 No portion of the first storey of a building to a depth of 10.7 m from the front wall of the building facing Southwest Marine Drive and extending across its full width may be used for residential purposes except for entrances to the residential portion.
- 5.4 All commercial uses and accessory uses must be carried on wholly within a completely enclosed building except for:
 - (a) Farmers' Market;
 - (b) Neighbourhood Public House;
 - (c) Public Bike Share;
 - (d) Restaurant; and
 - (e) Display of flowers, plants, fruits and vegetables in conjunction with a permitted use.
- 5.5 The Director of Planning may vary the use conditions of section 5.4 to permit the outdoor display of retail goods, and may include such other conditions as the Director of Planning deems necessary, having regard to the types of merchandise, the area and location of the display with respect to adjoining sites, the hours of operation and the intent of this By-law.

Floor Area and Density

- 6.1 Computation of floor area must assume that the site area is 6,174 m², being the site area at the time of the application for the rezoning evidenced by

this By-law, prior to any dedications.

- 6.2 The floor space ratio for all uses combined must not exceed 6.84.
- 6.3 The total floor area for commercial uses must be a minimum of 1,550 m².
- 6.4 Computation of floor area must include all floors having a minimum ceiling height of 1.2 m, both above and below base surface, measured to the extreme outer limits of the building.
- 6.5 Computation of floor area and dwelling unit area must exclude:
- (a) balconies and decks and any other appurtenances which, in the opinion of the Director of Planning, are similar to the foregoing, except that:
 - (i) the total area of these exclusions must not exceed 12% of the floor area being provided for dwelling uses; and
 - (ii) the balconies must not be enclosed for the life of the building, except that enclosed balconies may be permitted for units directly fronting onto Marine Drive within the lower six storeys of the building, provided the Director of Planning first approves the design of any such feature.
 - (b) where floors are used for off-street parking and loading, the taking on or discharging of passengers, bicycle storage, heating and mechanical equipment, or uses which in the opinion of the Director of Planning are similar to the foregoing, those floors or portions thereof so used that are at or below base surface, except that the exclusion for a parking space must not exceed 7.3 m in length; and
 - (c) all residential storage area above or below base surface, except that if residential storage area above base surface exceeds 3.7 m² for a dwelling unit, there will be no exclusion for any of the residential storage area above base surface for that unit.
- 6.6 Computation of floor area may exclude, at the discretion of the Director of Planning or Development Permit Board, amenity areas accessory to a residential use, to a maximum of 10% of the total floor area being provided for dwelling uses.
- 6.7 Where floor area associated with residential storage area is excluded, a minimum of 20% of excluded floor area above base surface must be located within the below market rental housing units as storage area.

Building Height

- 7.1 Building height, measured from base surface, must not exceed 96.2 m.

- 7.2 Despite section 7.1 of this By-law and section 10.18 of the Zoning and Development By-law, if the Director of Planning permits common indoor rooftop amenity space, the height of the portion of the building used for the common indoor amenity space must not exceed 100.5 m.
- 7.3 Despite the provisions of section 7.1 of this By-law and section 10.18 of the Zoning and Development By-law, the Director of Planning may permit a greater height than otherwise permitted for mechanical appurtenances such as elevator machine rooms, mechanical screens, mechanical rooms or similar features, if the Director of Planning first considers:
- (a) their siting and sizing in relation to views, overlook, shadowing, and noise impacts; and
 - (b) all applicable policies and guidelines adopted by Council,
- except that the Director of Planning must not permit any structure above a maximum height of 104.5 m.

Horizontal Angle of Daylight

- 8.1 Each habitable room must have at least one window on an exterior wall of a building.
- 8.2 The location of each such exterior window must allow a plane or planes extending from the window and formed by an angle of 50 degrees, or two angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.
- 8.3 Measurement of the plane or planes referred to in section 8.2 must be horizontally from the centre of the bottom of each window.
- 8.4 The Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement if the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council, and:
- (a) the minimum distance of unobstructed view is not less than 3.7 m; or
 - (b) the habitable room is within a unit assigned to moderate income households containing a minimum of three bedrooms, where the horizontal angle of daylight requirement is relaxed for no greater than one of the habitable rooms in the unit.
- 8.5 An obstruction referred to in section 8.2 means:
- (a) any part of the same building including permitted projections; or
 - (b) the largest building permitted under the zoning on any adjoining site.

- 8.6 A habitable room referred to in section 8.1 does not include:
- (a) a bathroom; or
 - (b) a kitchen whose floor area is the lesser of:
 - (i) 10% or less of the total floor area of the dwelling unit; or
 - (ii) 9.3 m².

Acoustics

9. A development permit application for dwelling uses must include an acoustical report prepared by a registered professional acoustical engineer demonstrating that the noise levels in those portions of the dwelling units listed below will not exceed the noise levels expressed in decibels set opposite such portions of the dwelling units. For the purposes of this section, the noise level is the A-weighted 24-hour equivalent (Leq24) sound level and will be defined simply as noise level in decibels.

Portions of dwelling units	Noise levels (Decibels)
Bedrooms	35
Living, dining, recreation rooms	40
Kitchen, bathrooms, hallways	45".

Severability

4. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Force and effect

5. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2022

Mayor

City Clerk