

C-5, C-5A and C-6 Districts Schedule (West End Commercial Districts)

1 Intent

The intent of this Schedule is to provide for retail and services uses and forms of development compatible with the primarily residential character of the West End and to provide for dwelling units in C-5A and C-6 designed to be compatible with commercial uses. This schedule encourages external building design, the scale and function of which is oriented towards pedestrians. The C-5 district provides opportunities for commercial uses throughout the district and opportunities for nightlife in the Davie Village. The C-5A district differs from the C-5 district because C-5A provides density bonuses for social housing and secured market rental housing. The C-6 district differs from the C-5 and C-5A Districts because the C-6 district provides a transition between the Downtown and the West End by permitting a greater density and scale than the C-5 and C-5A districts.

2 Outright Approval Uses

2.1 Subject to all other provisions of this By-law and to compliance with section 2.3 and the regulations of this Schedule, the uses listed in section 2.2 shall be permitted as specified in sections 2.2.1 and 2.2.2 and shall be issued a permit.

2.2 Uses

2.2.1 The uses listed in section 2.2.1 shall be permitted in the C-5, C-5A and C-6 Districts.

2.2.1.A • Accessory uses customarily ancillary to any of the uses listed in this section provided that, unless permitted as an outright approval use pursuant to section 2 of this Schedule, the total floor area of all accessory uses is not greater than 25 % of the gross floor area of the principal use.

2.2.1.C [Cultural and Recreational]

- Arts and Culture Indoor Event.
- Billiard Hall.
- Bowling Alley.
- Club.
- Community Centre or Neighbourhood House.
- Fitness Centre.
- Library.
- Museum or Archives.
- Rink.
- Swimming Pool.
- Theatre.

2.2.1.I [Institutional]

- Child Day Care Facility.
- School - Elementary or Secondary.
- School - University or College.
- Social Service Centre.

2.2.1.O [Office]

- Financial Institution.
- General Office.
- Health Care Office.

2.2.1.R [Retail]

- Furniture or Appliance Store.
- Grocery or Drug Store except for Small-scale Pharmacy.
- Retail Store.

2.2.1.S [Service]

- Animal Clinic.
- Barber Shop or Beauty Salon.
- Beauty and Wellness Centre.
- Catering Establishment.
- Laundromat or Dry Cleaning Establishment.
- Photofinishing or Photography Studio.
- Repair Shop - Class B.
- Restaurant - Class 1.
- School - Arts or Self-Improvement.
- School - Business.
- School - Vocational or Trade.

2.2.2 The use listed in section 2.2.2 shall be permitted in the C-6 District.

2.3 Conditions of Use

2.3.1 All commercial uses listed in section 2.2 of this Schedule and accessory uses thereto shall be carried on wholly within a completely enclosed building except for the following:

- (a) parking and loading activities;
- (b) restaurant;
- (c) display of flowers, plants, fruits and vegetables;
- (d) child day care facility.

2.3.2 In C-5A and C-6 no portion of any floor of a dwelling unit, club, social service centre, or child day care facility except for entrances shall be permitted within 2.0 m of street grade along a fronting street or a flanking street if the adjoining site on the flanking street is in a C district.

3 Conditional Approval Uses

3.1 Subject to all other provisions of this By-law, compliance with section 3.3 and the provisions and regulations of this Schedule, the Director of Planning or the Development Permit Board may approve any of the uses listed in section 3.2 as specified in sections 3.2.1 and 3.2.2, with or without conditions, provided that the Director of Planning or the Development Permit Board first considers:

- (a) the intent of this Schedule and all applicable policies and guidelines adopted by Council;
- (b) the submission of any advisory group, property owner or tenant; and
- (c) the appropriateness of the use with respect to the items which are shown in italics following the use.

3.2 Uses

3.2.1 The uses listed in section 3.2.1 may be permitted in the C-5, C-5A and C-6 Districts.

3.2.1.A • Accessory Uses customarily ancillary to any of the uses listed in this section, subject to the same provisions as section 2.2.1.A of this Schedule.

3.2.1.AG [Agricultural]

- Urban Farm - Class B, subject to the provisions of section 11.30 of this By-law.

3.2.1.C [Cultural and Recreational]

- Artist Studio, subject to the provisions of section 11.18 of this By-law.

3.2.1.D • Deposition or extraction of material so as to alter the configuration of the land. impact on character of the area, pedestrian amenity.

3.2.1.I [Institutional]

- Ambulance Station. *compatibility with surrounding uses, pedestrian amenity, vehicular ingress and egress*
- Detoxification Centre. *compatibility with surrounding uses, size*
- Public Authority Use. *compatibility with surrounding uses, pedestrian amenity, vehicular ingress and egress*

3.2.1.O [Office]

- Health Enhancement Centre.

3.2.1.P [Parking]

- Parking Area. *pedestrian amenity, compatibility with surrounding uses*

3.2.1.R [Retail]

- Adult Retail Store.
- Cannabis Store, subject to the provisions of section 11.28 of this By-law.
- Farmers’ Market, subject to the provisions of Section 11.21 of this By-law. *Compatibility with nearbysites, parking, traffic, noise, hours of operation, size of facility, pedestrian amenity.*
- Gasoline Station - Full Serve, subject to the provisions of section 11.10 of this By-law. *compatibility with surrounding uses, pedestrian amenity, number existing, vehicular ingress and egress*
- Gasoline Station - Split Island, subject to the provisions of section 11.10 of this By-law. *compatibility with surrounding uses, pedestrian amenity, number existing, vehicular ingress and egress*
- Grocery Store with Liquor Store. *compatibility with surrounding uses, number existing, hours of operation, social and policing impacts, vehicular ingress and egress*
- Liquor Store. *compatibility with surrounding uses, number existing, hours of operation, social and policing impacts, vehicular ingress and egress*
- Pawnshop. *compatibility with surroundings uses, pedestrian amenity, number existing, social and policing impacts, hours of operation, vehicular ingress and egress*
- Public Bike Share.
- Secondhand Store. *compatibility with surrounding uses, pedestrian amenity, number existing, social and policing impacts, hours of operation, vehicular ingress and egress*
- Small-scale Pharmacy, subject to the provisions of section 11.22 of this By-law.

3.2.1.S [Service]

- Bed and Breakfast Accommodation, subject to the provisions fo section 11.4 of this By-law.
- Cabaret. parking, vehicular circulation, *compatibility with surrounding uses and noise control.*
- Hotel, *design compatibility with any proximate residential area, size of liquor facilities, noise control, parking, loading, taxi and bus ingress and egress.*
- Neighbourhood Public House. *vehicular circulation, compatibility with surrounding uses*
- Print Shop.
- Restaurant - Class 2. *parking, vehicular circulation, compatibility with surrounding uses and noise control.*
- Short Term Rental Accommodation, subject to the provisions of section 11.32 of this By-law.

3.2.1.U [Utility and Communication]

- Public Utility. *compatibility with surrounding uses, pedestrian amenity, category of facility*
- Recycling Depot.

- 3.2.1.Z • Any other use which is not specifically listed and defined as a use in section 2 of this By-law but which the Director of Planning considers comparable in nature to the uses listed in this Schedule, having regard to the intent of this District Schedule.

3.2.2 The uses listed in section 3.2.2 shall be permitted in the C-5 District.

3.2.2.DW [Dwelling]

- Dwelling uses existing on or before February 4, 2014.
- Seniors Supportive or Assisted Housing, existing on or before February 4, 2014.

3.2.2.I [Institutional]

- Community Care Facility – Class B, subject to the provisions of section 11.17 of this By-law, existing on or before February 4, 2014.
- Group Residence, subject to the provisions of section 11.17 of this By-law, existing on or before February 4, 2014.

3.2.3 The uses listed in section 3.2.3 may be permitted in the C-5A and C-6 Districts.

3.2.3.DW [Dwelling]

- Dwelling Units in conjunction with any of the uses listed in this section, *compatibility with use.*
- Residential Unit associated with and forming an integral part of an artist studio, subject to the provisions of section 11.19 of this By-law.
- Seniors Supportive or Assisted Housing, subject to section 11.17 of this By-law.

3.2.3.I [Institutional]

- Community Care Facility – Class B, subject to the provisions of section 11.17 of this By-law.
- Group Residence, subject to the provisions of section 11.17 of this By-law.

3.3 Conditions of Use

3.3.1 All commercial uses listed in this section shall be carried on wholly within a completely enclosed building, except for the following:

- (a) parking and loading facilities;
- (b) full service gasoline station, except that section 11.10.2 of this By-law continues to apply;
- (c) neighbourhood public house;
- (d) restaurant;
- (e) farmers’ market;
- (f) public bike share; and
- (g) Urban Farm - Class B.

3.3.2 In C-5 no portion of any floor of a dwelling unit or community care facility or group residence except for entrances shall be permitted within 2.0 m of street grade along the fronting street or a flanking street if the adjoining site on the flanking street is in a C district.

4 Regulations

All uses approved under sections 2 and 3 of this Schedule shall be subject to the following regulations:

4.1 Site Area -- Not Applicable.

4.2 Frontage

4.2.1 In C-5 and C-5A the maximum frontage for each individual occupancy located on a floor having an elevation within 2.0 m of street grade except a community centre, gasoline service station, parking area, and public school shall be 7.7 m. In C-6, this regulation is not applicable.

4.2.2 The Director of Planning or the Development Permit Board, as the case may be, may relax the maximum frontage regulation in section 4.2.1 in the case of a grocery or drug store existing as of May 18, 1993, and for other retail or service uses on the same site, provided that:

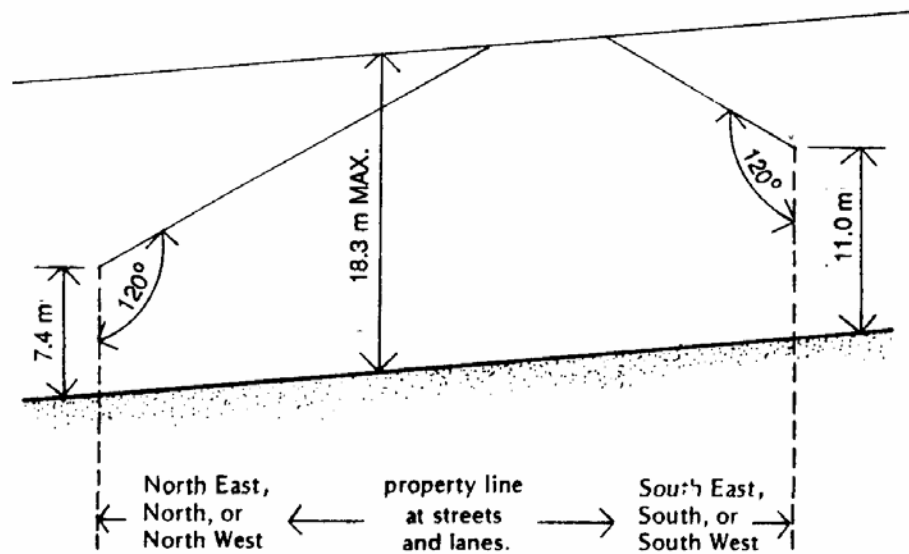
- (a) the Director of Planning or the Development Permit Board first considers the intent of this Schedule and is satisfied that the scale of development at the street property line will relate to pedestrians;
- (b) the site has a frontage exceeding 45.8 m as of May 18, 1993;
- (c) no more than a total of 50 % of the frontage of the site is occupied by grocery or drug store, or grocery store with liquor store, use and their departments except that this total amount shall be interspersed with other retail or service uses; and
- (d) windows at the street property line are clear-glazed and unobstructed so that the interior of the premises are at all times visible from the sidewalk.

For the purpose of this section 4.2.2 any department of a grocery, or drug store, or grocery store with liquor store, which has its own check-out facility and entrance/exit door to the street shall be deemed to be an individual occupancy.

4.3 Height

4.3.1 The maximum height of a building shall be 18.3 m, but no portion of the building shall extend above the envelope illustrated and described in Figure 1. Height shall be determined by a line parallel to a line joining the official established building grades at the property lines. Angles shall be measured from vertical lines at the property lines.

Figure 1. Building Envelope



- 4.3.2 The Director of Planning or the Development Permit Board may permit an increase in the maximum height of a building, to a height not exceeding 64 m in the C-5A and C-6 districts and 18.3 m in the C-5 district, if the Director of Planning or the Development Permit Board first considers:
- the impact on neighbourhood livability and environmental quality;
 - the intent of this schedule and all applicable Council policies and guidelines;
 - the submission of any advisory group, property owner or tenant; and
 - the impact on views, shadowing, privacy, lower level treatment of buildings, and open space.
- 4.3.3 The Director of Planning or the Development Permit Board may permit a portion of a building in the C-5, C-5A and C-6 Districts to extend above the building envelope depicted in Figure 1 of section 4.3.1, if the building height does not exceed 18.3 m in the C-5 district and the Director of Planning or the Development Permit Board first considers:
- the impact on neighbourhood livability and environmental quality;
 - the intent of this schedule and all applicable Council policies and guidelines;
 - the submission of any advisory group, property owner or tenant; and
 - the impact on views, shadowing, privacy, lower level treatment of buildings, and open space.
- 4.4 Front Yard**
- 4.4.1 No front yard shall be permitted except where the Director of Planning is satisfied that shopping continuity and pedestrian amenity along any abutting sidewalk will be achieved.
- 4.5 Side Yards and Setbacks**
- 4.5.1 No side yards shall be permitted except where:
- any portion of a building contains residential uses, that portion may be set back from the side property lines to fulfill provisions of section 4.10; or
 - the Director of Planning is satisfied that shopping continuity and pedestrian amenity along any abutting sidewalk will be achieved.

4.6 Rear Yard and Setback

- 4.6.1 No rear yard shall be required except where any portion of a building contains dwelling uses, that portion shall be set back a minimum of 7.6 m from the rear property line across the full width of the building, except where the rear of the site abuts a lane, this required minimum setback shall be decreased by the lane width between the rear property line and the ultimate centre of the lane.
- 4.6.2 The Director of Planning may decrease the rear yard setback for dwelling use, provided he is satisfied that residential livability is achieved for the development site and neighbouring existing or potential residential uses.

4.7 Floor Area and Density

- 4.7.1.1 The maximum floor space ratio shall not exceed 2.20 in the C-5 and C-5A Districts and 2.6 in the C-6 District, except that:
 - (a) for a hotel existing on or before February 4, 2014, the floor space ratio shall not exceed the greater of the floor space ratio existing on September 30, 1986 or the maximum floor space ratio limit set out in this section; and
 - (b) if the Director of Planning or the Development Permit Board first considers the intent of this district schedule, all applicable Council policies and guidelines and the submissions of any advisory groups, property owners or tenants, and there is no heritage density available for transfer, the Director of Planning or the Development Permit Board may permit an additional increase in permitted floor area of one m² for each amenity share provided to the city at no cost to the city, to a maximum increase of 10% above the maximum permitted floor space ratio.
- 4.7.1.2 The Director of Planning may permit an increase in permitted floor area for a hotel existing on September 30, 1986, to a maximum of 5% additional floor area, if, in the opinion of the Director of Planning, the increase in floor area will result in enhanced pedestrian amenities
- 4.7.2 In this district schedule, amenity means conservation of protected heritage property.
- 4.7.3 For the purposes of this district schedule, the cost of an amenity share is the amount specified per m² in the Heritage Amenity Share Cost Schedule G
- 4.7.4 Notwithstanding the provisions of subsection 4.7.1, the maximum floor space ratio achievable as a result of the provision of amenity shares must otherwise comply in all respects with this district schedule and this by-law.
- 4.7.5 Computation of floor area shall include:
 - (a) All floors of all buildings, both above and below ground level, to be measured to the extreme outer limits of the buildings.
- 4.7.6 Computation of floor area shall exclude:
 - (a) open residential balconies and any other appurtenances which, in the opinion of the Director of Planning, are similar to the foregoing, provided that the total area of all exclusions does not exceed 12% of the residential floor area being provided;
 - (b) patios and roof gardens, provided that the Director of Planning first approves the design of sunroofs and walls;

- (c) 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, which are at or below the base surface provided that the off-street parking spaces do not have a length of more than 7.3 m; and
- (d) all residential storage space above or below base surface, except that if the residential storage space above base surface exceeds 3.7 m² per dwelling unit, there will be no exclusion for any of the residential storage space above base surface for that unit.

4.7.7 Computation of floor area may exclude:

- (a) interior public space, including atria and other similar spaces, provided that:
 - (i) the excluded area shall not exceed the lesser of 10 % of the permitted floor area or 600 m²;
 - (ii) the excluded area shall be secured by covenant and right-of-way in favour of the City which sets out public access and use; and
 - (iii) the Director of Planning first considers all applicable policies and guidelines adopted by Council.
- (b) amenity areas, including day care facilities and non-profit recreation facilities, to a maximum floor area of the lesser of 10 % of the permitted floor area or 1 000 m², provided, in the case of day care facilities, the Director of Planning, on the advice of the Director of Social Planning, is satisfied that there is a need for a day care facility in the immediate neighbourhood.

4.7.8 The Development Permit Board may increase the allowable floor space ratio by a maximum of 10 percent where the increase results from a transfer of heritage density, except that this increase shall not apply to a hotel where the floor area has already been increased pursuant to section 4.7.1.2 or a development where there has been an increase in floor space ratio pursuant to section 4.7.1.1(b).

For the purposes of this section “heritage density” means density provided as compensation for a heritage designation, which is transferred from the site of the designated heritage property to another site in accordance with Council’s Transfer of Density Policy and Procedure.

4.8 **Site Coverage** – Not Applicable.

4.9 **[Deleted – see Parking By-law.]**

4.10 **Horizontal Angle of Daylight**

4.10.1 Each habitable room must have at least one window on an exterior wall of a building.

4.10.2 Each exterior window must be located so that 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, will encounter no obstruction over a distance of 24.0 m.

4.10.3 The plane or planes referred to in section 4.10.2 must be measured horizontally from the centre of the bottom of each window.

4.10.4 The Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement, if:

- (a) the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council; and
- (b) the minimum distance of unobstructed view is not less than 3.7 m.

- 4.10.5 An obstruction referred to in section 4.10.2 means:
- (a) any part of the same building including permitted projections; or
 - (b) the largest building permitted under the zoning on any adjoining site.

- 4.10.6 A habitable room referred to in section 4.10.1 does not mean:
- (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.

4.11 (Reserved)

4.12 (Reserved)

4.13 (Reserved)

4.14 (Reserved)

4.15 Acoustics

4.15.1 A development permit application for dwelling uses shall require evidence in the form of a report and recommendations prepared by persons trained in acoustics and current techniques of noise measurement demonstrating that the noise levels in those portions of the dwelling units listed below shall 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 (Leq) sound level and will be defined simply as the noise level in decibels.

Portions of dwelling units	Noise levels (Decibels)
bedrooms	35
living, dining, recreation rooms	40
kitchen, bathrooms, hallways	45

4.16 (Reserved)

4.17 External Design

- 4.17.1 All developments shall provide along all abutting streets any one or a combination of display windows, individualized tenancy unit design, building articulation, pedestrian entrance definition via a recess or projecting canopy or any other architectural features which facilitate pedestrian interest to the satisfaction of the Director of Planning.
- 4.17.2 The first storey shall be built to the front and side property lines except as noted in sections 4.4.1 and 4.5.1 while the remaining storeys may terrace back from the property lines.
- 4.17.3 Direct pedestrian access at the fronting street at or near grade level to each individual commercial occupancy which abuts the fronting street of a development site shall be provided.
- 4.17.4 Continuous weather protection having a minimum depth of 1.5 m in the form of a retractable fabric awning, a canopy attached to the building face by bolts to facilitate easy removal, or other forms satisfactory to the Director of Planning and City Engineer shall be provided along the fronting street and flanking street where the adjoining site on the flanking street is in a C district.

- 4.17.5 That portion of building located at the intersection of a fronting and flanking street where the adjoining site on the flanking street is in a C district shall be rounded with a minimum radius of 1.8 m, indented or truncated with minimum dimensions of 1.8 m by 1.8 m, or architecturally treated by other means to facilitate pedestrian amenity to the satisfaction of the Director of Planning.
- 4.17.6 Building corners at the intersection of a fronting and flanking street where the adjoining site on the flanking street is in a C district shall be accentuated by variances of height, cupolas, domes, or other architectural appurtenances, or any proposals varying from the above, satisfactory to the Director of Planning.
- 4.17.7 A minimum of one pedestrian entrance to commercial uses shall be provided from the flanking street where the adjoining site on the flanking street is in a C district.
- 4.17.8 All garbage container storage areas shall be screened from view from nearby sidewalks and dwelling units.
- 4.17.9 Mechanical equipment shall be enclosed and set back so as not to be visible from street level or architecturally treated by other means satisfactory to the Director of Planning. Exposed duct work is not permitted.
- 4.17.10 Dwelling uses shall provide:
- (a) pedestrian access separate from access to other uses;
 - (b) a minimum of one bicycle rack per four dwelling units in an enclosed storage room.

5 Relaxation of Regulations

- 5.1** Where a need for any public, social, cultural or recreational facility has been demonstrated to the satisfaction of the Development Permit Board, the Board may relax for any one building, which includes one or more of such facilities, the maximum floor space ratio and may require that any such facility be preserved in the public domain by way of a registered agreement and operated by the City or its delegates.

In determining the amount of the increase in floor area that may be permitted, the Development Permit Board shall consider:

- (a) the construction cost of the facility;
- (b) any costs to the developer of continuing maintenance required for the facility;
- (c) the rental value of the increased floor area;
- (d) the value of any authorized relaxation of other restrictions; and
- (e) the opinion of City Council.

- 5.2** The Director of Planning or the Development Permit Board may relax the regulations in the C-5A and C-6 districts regarding permitted floor space ratio for dwelling units in conjunction with other permitted uses, if the Director of Planning or the Development Permit Board first considers the intent of this schedule, and all applicable Council policies and guidelines, and:

- (a) the floor space ratio does not exceed 7.0. in the C-5A district and 8.75 in the C-6 district;
- (b) the floor space ratio for non-residential uses in the C-6 district must be no less than 1.2; and
- (c) either a minimum of 20% of the floor area included in the calculation of floor space ratio must be used for social housing, or all dwelling units must be secured market rental housing.

5.3 The Director of Planning or the Development Permit Board may relax the regulations in the C-6 district regarding permitted height for dwelling units in conjunction with other permitted uses, if the Director of Planning or the Development Permit Board first considers the intent of the schedule, and all applicable Council policies and guidelines, and:

- (a) the maximum height does not exceed 91.4 m.; and
- (b) either a minimum of 20% of the floor area included in the calculation of floor space ratio is used for social housing, or all dwelling units must be secured market rental housing.

