

# Section 5

## By-law Relaxations and Powers of Discretion

### 5.1 Relaxation of By-law Provisions

5.1.1 Except as otherwise specified in this by-law, in any case where enforcement of this by-law would result in unnecessary hardship, the Director of Planning or Development Permit Board, in the exercise of their jurisdiction, may relax the provisions of this by-law to the extent necessary to relieve such hardship, except that before granting the relaxation, the Director of Planning or Development Permit Board must:

- (a) consider whether the relaxation would result in any adverse impacts on adjacent properties; and
- (b) have regard to the intent of this by-law, the regulations and policies of any official development plan, and all applicable Council policies and guidelines.

5.1.2 Except as otherwise specified in this by-law, in any case where Council determines that the proposed development would make a contribution to conserving a building or site designated by Council as protected heritage property or a building or site on the Heritage Register, the Director of Planning or Development Permit Board, in the exercise of their jurisdiction, may relax the provisions of this by-law, except that before granting the relaxation, the Director of Planning or Development Permit Board must:

- (a) consider any advice from the Vancouver Heritage Commission or any other body established by Council for a similar purpose, defining the aspects of the building or site that give it heritage value and advising on the proposed conservation work;
- (b) notify such adjacent property owners and tenants as deemed necessary, consider the responses received, and, if there is significant objection, refer the matter to Council for advice; and
- (c) consider the provisions of this by-law and all applicable Council policies and guidelines,

and any development permit issued must specify the heritage aspects of the building or site that merit the relaxation authorized by this section.

5.1.3 Except as otherwise specified in this by-law, where the proposed development makes provision for low-cost housing for persons receiving assistance and is not in the R1-1, RT-1, RT-4, RT-4A, RT-7, RT-9, RT-10, or RT-11 districts or in any other district that permits single detached house but does not permit multiple dwelling, the Director of Planning or Development Permit Board, in the exercise of their jurisdiction, may relax the provisions of this by-law except that before granting the relaxation, the Director of Planning or Development Permit Board must consider:

- (a) all applicable Council policies and guidelines; and

(b) the impact on the liveability of neighbouring residents,

and, for the purposes of this section, low-cost housing for persons receiving assistance means social housing, except that 70% of the dwelling units must be occupied by persons eligible for either Income Assistance or a combination of basic Old Age Security pension and Guaranteed Income Supplement and must be rented at rates no higher than the shelter component of Income Assistance, and the remainder of the dwelling units must be occupied by households with incomes below housing income limits, as set out in the current 'Housing Income Limits' table published by the British Columbia Housing Management Commission, or equivalent publication.

5.1.4 Except as otherwise specified in this by-law, the Director of Planning or Development Permit Board may relax the provisions of this by-law for a building that provides for public space or activities containing only 1 or more of the following uses:

- (a) ambulance station;
- (b) community centre or neighbourhood house;
- (c) library;
- (d) a public authority use, limited to fire hall and police station;
- (e) rink;
- (f) school - elementary or secondary; or
- (g) swimming pool,

if the Director of Planning or Development Permit Board considers all applicable Council policies and guidelines and the impact on the liveability of neighbouring residents.

5.1.5 The authority of the Director of Planning or Development Permit Board to relax any provision of this by-law under this section 5.1 includes the authority to impose conditions, including time limitations.

## **5.2 Powers of Discretion Related to Zoning Matters**

5.2.1 The Director of Planning may vary the provisions of this by-law relating to any of the following:

- (a) alterations or additions to an existing building that lacks minimum yards required by the applicable district schedule, except that the Director of Planning may only vary yard requirements, and must consider the impact on neighbouring properties;
- (b) placement of more than 1 principal building on 1 site, or structural alterations or additions to 2 or more principal buildings existing on the same site, located in a C, M, I or CD district;
- (c) placement of more than 1 principal building on 1 site, or structural alterations or additions to 2 or more principal buildings existing on the same site, if such principal buildings consist of multiple dwellings

located in any R district, except that the arrangement of such principal buildings must be satisfactory to the Director of Planning;

- (d) retention of more than 1 principal building on 1 site where an application for a development permit has been made but the permit cannot be issued due to a requirement to consolidate or subdivide the site;
- (e) low operational cost housing containing 6 or more dwelling units that is not located in a CD district, except that the Director of Planning may not increase the permitted floor area or density of units above the maximum permitted in the applicable district schedule, and may only be granted after the Director of Planning has considered all applicable Council policies and guidelines, and this section **5.2.1(e)** does not apply to applications made after December 31, 2025;
- (f) required setbacks to off-street parking areas where, in the opinion of the Director of Planning, the landscaping provided or to be provided is adequate to warrant such decrease, except that in the C-1 district or an R district, no decrease may be granted that has the effect of decreasing the front yard to less than the required depth of an adjoining front yard; and
- (g) the maximum projection of balconies into required yards, horizontal daylight control angles, and limitations on building depth.

5.2.2 Despite anything to the contrary in this by-law, if

- (a) the construction or alteration of, or addition to, a building is to include enhanced accessibility to and from the building by way of ramps, lifts, or other like means for persons facing barriers to access because they have a loss or reduction of functional ability or activity; and
- (b) the Director of Planning considers all applicable Council guidelines and policies,

then the Director of Planning may vary the requirements in the applicable district schedule regarding yards, setbacks, site coverage, impermeability, building depth, and side door entrance to the extent necessary to allow such enhanced accessibility.

5.2.3 The Director of Planning may vary the provisions of this by-law regulating building placement if the placement of a building will accommodate the retention of an existing tree that, in the opinion of the Director of Planning, warrants retention, and the placement will not, in the opinion of the Director of Planning, result in unduly adverse impacts on adjacent properties.

5.2.4 If an owner applies to replicate a multiple conversion dwelling or infill damaged by fire to the extent of 60% or more of its value above its foundations, and the Director of Planning has previously given a bonus, relaxation or variation under the RT-3, RT-4, RT-4A, RT-5, RT-6, RT-7, RT-8, RT-9, RT-10, RT-11, RM-1, RM-7 and RM-7A, RM-8, RM-8A, RM-9 and RM-9B, RM-9A, RM-10, RM-11, or RM-12 district schedules in respect of such use, and the proposed replication is in accordance with the most recently issued development or building permits for that use, the Director of Planning must vary the provisions of the applicable district schedule to the extent necessary to permit the replication.

- 5.2.5 The Director of Planning is authorized to determine whether or not a building is a character house and, in making that determination, may consider the age and architectural form and style of the building, in accordance with all applicable Council policies and guidelines.
- 5.2.6 Before exercising any power of discretion under this section [5.2](#), the Director of Planning must be satisfied that any property owner likely to be adversely affected is notified, and such notification must be in a form appropriate in the circumstances.