**Agenda – Council – February 22, 2018**

**Report – Executive Policy Committee – February 13, 2018**

**Item No. 4 Downtown Zoning By-law Review 2017**
**File DAZ 218/2017**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 13, 2018, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That a by-law to amend the Downtown Winnipeg Zoning By-law No. 100/2004 (draft amending By-law attached as Schedule "A") in accordance with Appendix "B" of this Report, be enacted.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

**Report – Executive Policy Committee – February 13, 2018**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 13, 2018, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 2, 2018, the Standing Policy Committee on Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted its recommendation to the Executive Policy Committee.

**RE:** **Downtown Zoning By-law Review 2017**
**File DAZ 218/2017**

**For submission to:** **Executive Policy Committee**

**Prepared by:** **A. Poitras, Senior Committee Clerk**
**Standing Policy Committee on Property and Development, Heritage and Downtown Development**

**Report date:** **February 2, 2018**

STANDING COMMITTEE RECOMMENDATION:

On February 2, 2018, the Standing Policy Committee on Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and recommended to the Executive Policy Committee / and recommended:

1. That Council enact a by-law to amend the Downtown Winnipeg Zoning By-law No. 100/2004 (draft amending By-law attached as Schedule "A") in accordance with Appendix "B" of this Report.

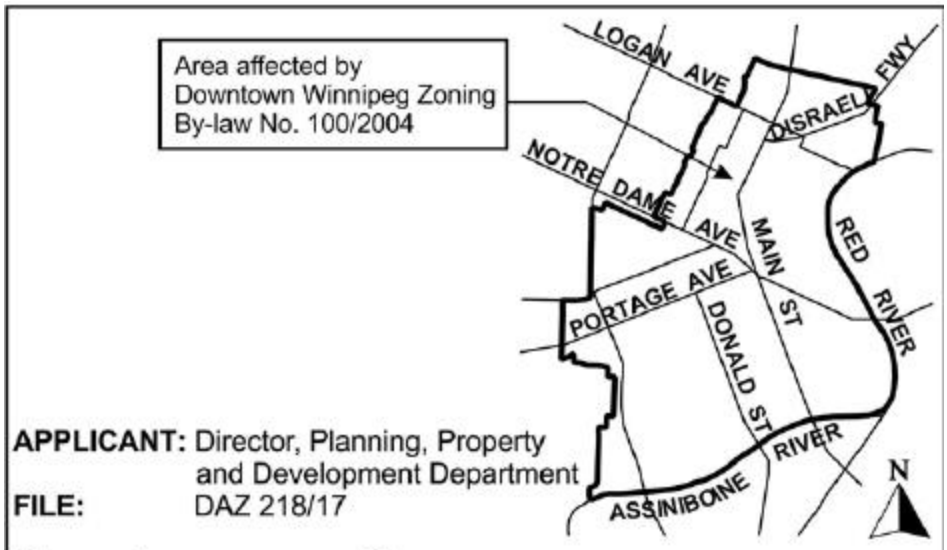
2. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The Standing Policy Committee on Standing Policy Committee on Property and Development, Heritage and Downtown Development provided the following supporting reason(s) for its recommendation:

1. I feel these are positive changes.
2. We want more trees and greenery in the Downtown.
3. The micro-brewery issue is exciting. This will enable something that is fun and happening in other cities. They will be locally made products supporting local the economy and downtown vibrancy.

**PUBLIC HEARING SUMMARY**

| | |
|---|---|
| File: | DAZ 218/2017 |
| Before: | Standing Policy Committee on Standing Policy Committee on Property and Development, Heritage and Downtown Development<br>Councillor Orlikow, Chairperson<br>Councillor Dobson<br>Councillor Gerbasi |
| Public Hearing: | February 2, 2018<br>Council Building, 510 Main Street |
| Applicant: | The City of Winnipeg<br>(Director of Planning, Property and Development) |
| Subject: | |




**Why are changes proposed?**

As part of the *OurWinnipeg* Implementation Plan, the Winnipeg Public Service has committed to continuous review of the City's zoning by-laws. On September 19, 2017, Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Winnipeg Public Service to prepare amendments to the Downtown Winnipeg Zoning By-Law 100/04 to address several identified issues.

**What changes are proposed?**

- Parking lot standards and accessory loading standards;
- Commercial Sales & Services uses - size and orientation;
- Removal of Amusement Devices as a land use;
- Permissions for Microbreweries;
- Updates and expansions to definitions.

For more information regarding the proposed amendments, please contact: Kurtis Kowalke at 204-986-5917, or email kkowalke@winnipeg.ca.

Exhibits Filed:

1. Application dated October 10, 2017
2. Notification of Public Hearing
3. Minute item from the September 19, 2017 meeting of the Standing Policy Committee on Property and Development, Heritage and Downtown Development
4. Report from the Urban Planning Division dated January 4, 2018
5. Inspection Report

REPRESENTATIONS:

In Support:

Nil

In Opposition

Nil

For Information:

Nil

For the City:

J. Kiernan, Director of Planning, Property and Development Department
K. Kowalke, Principal Planner, Planning, Property and Development Department

Exhibit "4" referred to in File DAZ 218/2017

# ADMINISTRATIVE REPORT

**Title:** Downtown Zoning By-law Review 2017

**Critical Path:** Standing Policy Committee on Property and Development, Heritage, and Downtown Development – Executive Policy Committee – Council

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| B. Smith | J. Kiernan | N/A | D. McNeil |

## EXECUTIVE SUMMARY

The Winnipeg Public Service proposes a short list of minor amendments to the Downtown Winnipeg Zoning By-Law No.100/2004 (the "Downtown Zoning By-law") as part of its ongoing review of the zoning by-laws. Many of the amendments aim to better align the Downtown Zoning By-law with the Winnipeg Zoning By-law No. 200/2006, which was updated in January 2017. Other amendments are being proposed to reduce common variances, and achieve a better-built product. A number of corrections and clarification issues have also been addressed. A summary of the proposed amendments is attached as Appendix "A" and a detailed description of proposed amendments is attached as Appendix "B".

## RECOMMENDATIONS

1. That Council enact a by-law to amend the Downtown Winnipeg Zoning By-law No. 100/2004 (draft amending By-law attached as Schedule "A") in accordance with Appendix "B" of this Report.

2. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

## REASON FOR THE REPORT

As part of the OurWinnipeg Implementation Plan, the Winnipeg Public Service has committed to reviewing the City of Winnipeg's two zoning by-laws, the Winnipeg Zoning By-law No. 200/2006 and the Downtown Zoning By-law No. 100/2004, on a regular

basis to address any errors and omissions, along with issues of clarity or alignment with OurWinnipeg and Complete Communities policies.

Text amendments to a zoning by-law require a public hearing. The Standing Policy Committee on Property and Development, Heritage and Downtown Development is the delegated hearing body for zoning applications in Downtown Winnipeg.

## IMPLICATIONS OF THE RECOMMENDATIONS

If Council passes the proposed amending by-law, the applicable text amendments will be incorporated into the Downtown Winnipeg Zoning By-law to improve its clarity and functionality, and to achieve better alignment with OurWinnipeg and Complete Communities policies.

Any building, structure, or use of land that was lawfully in existence on the date that the amending by-law comes into force may continue to exist, as detailed in section 150 of the Downtown Winnipeg Zoning By-law.

## HISTORY/DISCUSSION

On January 25, 2017, Council adopted updates to the Winnipeg Zoning By-law No. 200/2006 following public consultations.

On September 19, 2017, an overview of proposed updates to the Downtown Winnipeg Zoning By-law was provided to the Standing Policy Committee on Property and Development, Heritage and Downtown Development. The Winnipeg Public Service was directed to initiate a formal zoning application and advertise it in accordance with statutory requirements.

The current set of proposed amendments aims to better align the Downtown Winnipeg Zoning By-law with the Winnipeg Zoning By-law No. 200/2006, which was updated in January 2017. Many of the amendments proposed in this report are identical to the updates adopted in January. Other amendments are being proposed to reduce common variances, and achieve a better-built product. For example, revisions to Sections 410(2) and 510(2) would increase the size limit for Commercial Sales & Service uses from 3,000 to 5,000 sq.ft. in certain sectors. This will reduce variance while still ensuring fine-grain, neighbourhood-scale businesses.

A number of corrections and clarification issues have also been addressed. Specifically, the amendments focus on:

- parking lot standards and accessory loading standards;
- regulations dealing with Commercial Sales & Services uses, particularly size and orientation; and
- updates, corrections and expansions to definitions to add clarity and consistency.

Appendix “A” contains a quick reference table of the 19 proposed amendments.
Appendix “B” explains each proposed amendment in detail.

## FINANCIAL IMPACT

## Financial Impact Statement Date: December 31, 2017

## Project Name:

## Downtown Zoning By-law Review 2017

**COMMENTS:**

There are no financial implications associated with this report.

*"Original Signed By"*
Mike McGinn, CPA, CA
Manager of Finance

## CONSULTATION

This Report has been prepared in consultation with:

- Legal Services, as to legal issues

## OURWINNIPEG POLICY ALIGNMENT

Incorporating the applicable text amendments into the Downtown Winnipeg Zoning By-law will improve its clarity and functionality, and achieve better alignment with the OurWinnipeg and Complete Communities policies.

## SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning
Prepared by: Kurtis Kowalke, Principal Planner
Date: January 4, 2018
File No: DAZ 218/2017

Attachments:

1. Schedule ‘A’: Draft By-law
2. Appendix “A” Summary of Proposed Downtown Zoning By-law Amendments
3. Appendix “B” Description of Proposed Amendments

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Appendix “A” Summary of Proposed Downtown Zoning By-law Amendments

| Sect. No. | Description of recommended change | Correction | Clarification | Policy Alignment | Alignment with ZBL 200/2006 | Functional improvement |
|---|---|---|---|---|---|---|
| 200(4) | Expand description of prohibited uses | | ✓ | | ✓ | |
| 210(3), 700(2) | Expand on descriptions of Floor Area and Floor Area Ratio | | ✓ | | ✓ | |
| 230(3)(a) | Adjust parking aisle and driveway widths per ZBL 200 | | | | ✓ | |
| | Reduce van accessible space height per current accessibility standards | | | ✓ | | ✓ |
| | Clarify allocations of accessible and van accessible parking | | ✓ | | | |
| 230(3)(g)(iv) | Adjust planting medium specifications for trees | | | | | ✓ |
| 240(4)(d)(i) | Adjust when screening for loading areas will and will not be required | | | | | ✓ |
| 240(4)(d)(ii) | Eliminate the reference to a 5 foot fence around loading areas | ✓ | | | | ✓ |
| 240(4)(e)(ii) | Allow either 2.5 foot fence to screen loading or an approved alternative | | | | | ✓ |
| 240(5) | Replace the term Gross Floor Area with Floor Area | ✓ | ✓ | | | |
| 240(6) | Reduce the loading requirements for Office uses | | | | ✓ | ✓ |
| 310(2) | Require Commercial Sales & Services to have direct sidewalk access | | | ✓ | | ✓ |
| 310(2), 410(2), 510(2) | Replace the term Brewery with Craft Brewery | | | | ✓ | |
| | Delete Amusement Devices as a regulated land use | | | | | ✓ |
| 310(2), 410(2), 510(2), 700(3) | Permit a Microbrewery in conjunction with a Retail store | | | | | ✓ |
| 330(2)(e), 430(2)(e), 530(2)(e), 630(2)(e) | Require a front setback for parking instruction signs | | | ✓ | ✓ | ✓ |
| 410(2), 510(2) | Permit Commercial Sales & Services on upper floors of buildings | | | | | ✓ |
| | Increase Commercial Sales & Services size limit to 5000 sq.ft. | | | | ✓ | ✓ |
| 700(3) | Insert a definition for Craft Brewery/Distillery/Winery | | ✓ | | ✓ | |

## *Appendix "B"*
## *Proposed Amendments to Downtown Zoning By-law*

**1**

| | |
|---|---|
| **Section:** | 200(4) |
| **Change:** | Add "Prohibited Uses shall not be established in the Downtown and are not eligible for a use variance." |
| **Rationale:** | Better aligns with the description of Prohibited Uses found in Winnipeg Zoning By-law No. 200/2006 and adds clarity. |
| **Current Regulation:** | Land uses incompatible with the vision of Downtown Winnipeg articulated in *OurWinnipeg*, the *Complete Communities Direction Strategy*, and other downtown policy are prohibited. |

**2**

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|---|---|
| **Section:** | 210(3), 700(2) |
| **Change:** | Section 210(3) will more clearly describe Floor Area Ratio. Section 700(2), General Definitions, will expand on what is included and excluded from Floor Area calculations. Incidental service storage and mechanical equipment spaces would be added as exclusions. |
| **Rationale:** | Adds clarity about how to calculate floor area and better aligns with Winnipeg Zoning By-law No. 200/2006 |
| **Current Regulation:** | Description of Floor Area Ratio is split between these two sections |

**3**

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|---|---|
| **Section:** | 230(3)(a) |
| **Change:** | Adjust parking aisle and driveway widths - minor adjustments to angle-parking dimensions; provides separate dimensions for one-way and two-way driveways. |
| **Rationale:** | Provides more choice and better aligns with Winnipeg Zoning By-law No. 200/2006 |
| **Current Regulation:** | Minimum driveway width: 12 feet for all |

**4**

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|---|---|
| **Section:** | 230(3)(a) |
| **Change:** | Reduce minimum clearance height for van accessible parking to 8 feet. |
| **Rationale:** | The proposed height is taken from the 2015 edition of Winnipeg Accessibility Design Guidelines and will reduce the need for variances. |
| **Current Regulation:** | 9 feet |

**5**

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|---|---|
| **Section:** | 230(3)(a) |
| **Change:** | Edit accessible and van accessible parking allocations by adding, "Quantities shown below must include the values to the right (accessible spaces + van accessible spaces)". Van accessible is no longer expressed as a subset of accessible spaces, and the numbers are adjusted accordingly. |
| **Rationale:** | Will make accessible and van accessible parking requirements easier to calculate. |
| **Current Regulation:** | N/A |

**6**

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|---|---|
| **Section:** | 230(3)(g)(iv) |
| **Change:** | Reduce soil volume requirements for tree planting to 300 cubic feet, but require an unobstructed 3 foot radius around the trunk of the tree (at grade or below pavement in soil vaults). |
| **Rationale:** | Reduced soil volume will allow for smaller tree species to be accommodated in constrained urban sites without a variance. A minimum width of planting area will offset the impacts of reduced soil volume and improve survival rates. |
| **Current Regulation:** | 450 cubic feet with no minimum width/radius |

**7**

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| **Section:** | 240(4)(d)(i) |
| **Change:** | On-site loading is proposed to have screening when adjacent to public road frontages, or where such facilities abut residential uses at grade. |
| **Rationale:** | Outdoor loading areas on private property should have screening separating it from the public sidewalk. Mixed use buildings with no residential at grade would no longer trigger a requirement for screening at abutting properties since sight lines would be above loading activity. |
| **Current Regulation:** | Screening required when parallel or perpendicular to public road frontages where such facilities abut residential properties; |

**8**

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|---|---|
| **Section:** | 240(4)(d)(ii) |
| **Change:** | Clarifies that minimum fence height for screening loading areas is 2.5 feet |
| **Rationale:** | Fence height for loading is identified as 5 feet in one section and 2.5 in another section. Proposed change will address this discrepancy. |
| **Current Regulation:** | See above. |

**9**

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|---|---|
| **Section:** | 240(4)(e)(ii) |
| **Change:** | Allow alternative screening of loading areas in lieu of 2.5 foot fence through Urban Design Review approval. |
| **Rationale:** | Allows more options such as a bench or landscaping to achieve screening without requiring a variance |
| **Current Regulation:** | Must be provided in the form of a minimum 2.5 foot high building wall or fence, a curb, or combination. |

**10**

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|---|---|
| **Section:** | 240(5) |
| **Change:** | Replace the term Gross Floor Area with Floor Area |
| **Rationale:** | Matches the intent, which is that calculation of floor area (for Floor Area Ratio or loading space ratios) does not include specified portions of the building. Floor Area is the term used in the Definitions. |
| **Current Regulation:** | See above |

**11**

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|---|---|
| **Section:** | 240(6) |
| **Change:** | Exempt offices at or below 100,000 square feet from Person and Service Loading requirements. Offices over 100,000 square feet would require 1 Person and Service Loading and 1 Delivery Loading space. Offices over 200,000 square feet would require 2 of each, and so on. |
| **Rationale:** | Currently, loading requirements for downtown offices exceed what is required city wide under Winnipeg Zoning By-law No. 200/2006 and exceed what other cities surveyed require. This results in numerous variances. The proposed change will also align more closely with actual loading complements at most existing downtown office building, few of which would comply with current regulations. |
| **Current Regulation:** | Offices up to 40,000 square feet are exempt from Person and Service Loading requirements. Offices over 100,000 square feet would require 3 Person and Service Loading and 5 Delivery Loading space. |

**12**

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|---|---|
| **Section:** | 310(2) |
| **Change:** | Require direct access to the public sidewalk for Commercial Sales & Service uses in the Multiple Use Sector |
| **Rationale:** | This regulation already existing in the Character and Downtown Living Sectors. It ensures that Commercial Sales & Service uses animate the public sidewalk rather than being oriented to parking/loading areas or interior lobbies. Supports |

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| | Complete Communities polices regarding the continuity of pedestrian-oriented, street-level activity. |
| **Current Regulation:** | N/A |

**13**

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|---|---|
| **Section:** | 310(2), 410(2), 510(2) |
| **Change:** | Replace the term Brewery with Craft Brewery |
| **Rationale:** | Incorporates terminology used in Winnipeg Zoning By-law No. 200/2006 and conveys an intent that small scale brewery operations are suitable downtown, whereas larger industrial scale breweries would not be. |
| **Current Regulation:** | See above. |

**14**

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|---|---|
| **Section:** | 310(2), 410(2), 510(2) |
| **Change:** | Delete Amusement Devices as a regulated land use |
| **Rationale:** | There is no longer the same stigma against Amusement Devices that there once was. A device is not a true land use and enforcement would be challenging if it ever had to be enforced. |
| **Current Regulation:** | In Multiple Use, Character and Downtown Living Sector – maximum of 4 devices |

**15**

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|---|---|
| **Section:** | 310(2), 410(2), 510(2), 700(3) |
| **Change:** | Allow a Microbrewery to be accessory to Retail sales without a Restaurant |
| **Rationale:** | Microbreweries are only allowed to produce enough volume for *on-site* consumption and sales. This ensures that the scale of the brewing facilities does not dominate the more active uses associated with it. A Microbrewery associated with a small craft beer store would have no greater impacts than a Restaurant or Drinking Establishment (both of which are already permitted Downtown). |
| **Current Regulation:** | Microbreweries are permitted by default in conjunction with a Restaurant or Drinking Establishment. A microbrewery is not permitted to be established for *on-site* retail only. |

**16**

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| **Section:** | 330(2)(e), 430(2)(e), 530(2)(e), 630(2)(e) |
| **Change:** | Require a front setback for parking instruction signs at least a distance equal to half the height of the sign |
| **Rationale:** | While the Downtown Zoning By-law limits free-standing signs to 4 foot high podium format, parking instruction signs may be up to 10 feet tall. In order to minimize impacts on the streetscape and improve CPTED conditions (crime prevention through environmental design), a modest setback from the sidewalk is |

| | |
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| | proposed consistent with requirements under Winnipeg Zoning By-law No. 200/2006. |
| **Current Regulation:** | No setback |

**17**

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|---|---|
| **Section:** | 410(2), 510(2) |
| **Change:** | Permit Commercial Sales & Services uses on upper floors of buildings in Character and Downtown Living Sectors |
| **Rationale:** | Current regulations intend to animate the street at grade by forcing all Commercial Sales & Service uses to be at street level. While those types of businesses are typically attracted to the visibility and walk-by traffic of street-level space, the availability of *upper level* space often requires a conditional use application to establish these uses. These applications have always been supported and are deemed to be unnecessary. |
| **Current Regulation:** | Conditional if not directly accessible from public sidewalk |

**18**

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|---|---|
| **Section:** | 410(2), 510(2) |
| **Change:** | Increase size limit for Commercial Sales & Service uses from 3000 to 5000 sq.ft. in Character and Downtown Living Sectors |
| **Rationale:** | Given the number of variances processed to exceed the current size limit, an incremental increase is proposed to streamline the establishment of these uses downtown. The proposed size matches that of restaurants in C2 zoned sites outside downtown, as well as Retail Sales and Personal Services within Neighbourhood Main Streets (Schedule G – Planned Development Overlay). |
| **Current Regulation:** | See above. |

**19**

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|---|---|
| **Section:** | 700(3) |
| **Change:** | Insert a definition for Craft Brewery/Distillery/Winery |
| **Rationale:** | Provides additional information/clarification and aligns with recent changes to Winnipeg Zoning By-law No. 200/2006 |
| **Current Regulation:** | N/A |