**THE CITY OF WINNIPEG**

**BY-LAW NO. 47/2021**

A By-law of THE CITY OF WINNIPEG to amend the Development Procedures By-law No. 104/2020 in respect of density variances.

**THE CITY OF WINNIPEG,** in Council assembled, enacts as follows:

**Development Procedures By-law amended**

**1** The Development Procedures By-law No. 104/2020 is amended by this By-law.

**Section 31 replaced**

**2** Section 31 is replaced with the following:

***Density Variances***

***31(1)*** *Despite anything else in this By-law, a density regulation or rule in a zoning by-law must not be modified by way of variance except in accordance with this section.*

***31(2)*** *A density regulation or rule in a zoning by-law must not be modified unless the subject site has one of the following zoning designations or where an application to vary the density regulation or rule is accompanied by an application to change the zoning designations to one of the following:*

*(a) Commercial Mixed Use;*

*(b) Residential Mixed Use;*

*(c) Residential Multi-Family (Large); or*

*(d) Transit Oriented Development.*

***31(3)*** *Despite subsection (2), a density regulation or rule in a zoning by-law may be modified by way of variance*

*(a) where the subject site has a zoning designation or an application to change to a zoning designation which allows a two-family dwelling as a permitted use but does not meet the required lot area per dwelling unit for a two-family dwelling, by the minimum amount necessary in order to allow development of the two-family dwelling; and*

*(b) where the subject site has any other zoning designation, in respect of a new or existing multi-family dwelling by no more than 10% of the density regulation or by one additional dwelling unit, whichever is greater. Where 10% of the density regulation would result in a fractional number of dwelling units, the number of dwelling units shall be rounded up to the next highest whole number.*

***31(4)*** *Despite clause (3)(b), a density regulation or rule in a zoning by-law may be modified in other zoning designations by more than 10%*

*(a) where the application to vary the density regulation or rule in a zoning by-law meets all of the conditions below:*

*(i) the existing multi-family dwelling is being maintained without significant changes to the building height or footprint, as determined by a designated employee;*

*(ii) any dwelling units being added to the existing multi-family dwelling will not require any site servicing upgrades, as determined by a designated employee;*

*(iii) the existing zoning district allows a multi-family dwelling as either a permitted use or a conditional use;*

*(iv) the density meets either the minimum lot area per dwelling unit requirements of the Residential Multi-Family (Large) zoning district where the proposed development is multi-family residential, or the minimum lot area per dwelling unit requirements of the Residential Mixed Use zoning district where 0the proposed development is mixed use; and*

*(v) where the dimensional standards of the alternative zoning district would require all of the following:*

*A. a variance for lot area;*

*B. a variance for substandard side yard; and*

*C. a legal tool such as a zoning agreement to restrict the maximum building height; or*

*(b) where*

*(i) the multi-family dwelling is damaged or destroyed, the multi-family dwelling is being repaired or rebuilt and not exceeding the previous density, and a designated employee determines that the cost of repairing or rebuilding the multi-family dwelling is more than 50% of the cost of constructing an equivalent new multi-family dwelling; and*

*(ii) the application to re-establish the previous density of the multi-family dwelling is submitted within 2 calendar years following the date on which the multi-family dwelling was damaged or destroyed, as determined by a designated employee.*

**Section 37 replaced**

**3** Section 37 is replaced with the following:

***Appeal***

***37(1)*** *Subject to subsection (2), a decision of the approving authority under this Part may be appealed to the Appeal Committee in accordance with the Charter.*

***37(2)*** *Where the site is located entirely within the area to which the Downtown Winnipeg Zoning By-law No. 100/2004 applies, a decision of the approving authority under this Part may be appealed in accordance with that By-law.*

**DONE AND PASSED** this day of , 2021.

Mayor

City Clerk

***Approved as to content:***

Director of Planning, Property and Development

***Legally reviewed and certified as to form:***

"Sarah Rentz" – May 6, 2021

Director of Legal Services and City Solicitor