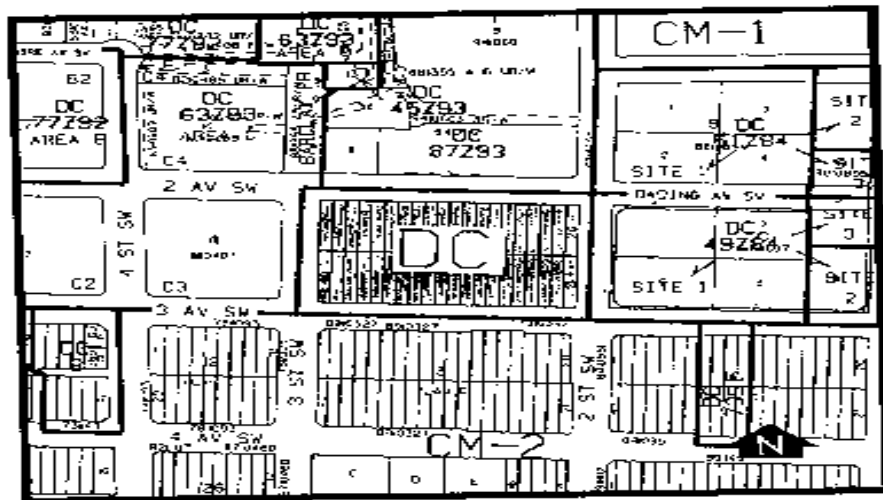


**Amendment No. 95/005  
Bylaw No. 21Z95  
Council Approval: 18 April 1995**

**SCHEDULE B**



**A. PURPOSE**

This area, the block bounded by 2 and 3 Avenues S. and 2 and 3 Streets W. is intended to be redeveloped for commercial, residential, or mixed commercial and residential purposes, at densities compatible with its location relative to the downtown core and the residential neighbourhood of Eau Claire.

**B. DEFINITION**

Adult entertainment establishment means any premises or part thereof wherein live performances, motion pictures, video tapes, video discs, slides or similar electronic or photographic reproductions, the main feature of which is the nudity or partial nudity of any person, are performed or shown as a principal use or an accessory to some business activity which is conducted on the premises, but does not include an adult mini-theatre.

**C. PERMITTED LAND USES**

**1. Permitted Uses**

- 1.1 Home occupations - Class 1
- Natural areas
- Parks and playgrounds
- Utilities

1.2 Within buildings existing on-site at the date of approval of this By-law:

- Child care facilities
- Dwelling units
- Essential public services
- Grocery stores
- Home occupations - Class 1
- Personal service businesses
- Public and separate schools
- Public and quasi-public buildings
- Restaurants
- Retail stores

1.3 Notwithstanding any other requirement of this By-law, proposed or existing uses of a site shall be permitted uses on that site if they:

- (a) are included in the list of discretionary uses in Section D.1; and
- (b) have been approved on or before the date on which this By-law was approved, by a development permit which has not expired.

**2. Permitted Use Rules**

2.1 Notwithstanding any other requirement of this By-law, a proposed or existing structure may be developed, redeveloped, or continue to exist provided that

- (a) there is no variation whatsoever, except as may be allowed pursuant to Section 11(1)(a)(iii) of By-law 2P80, in that structure except as may be necessary to comply with other applicable legislation; and
- (b) it has been approved before the date on which this By-law was approved, by a development permit that has not expired.

2.2 Permitted Uses shall comply with the Discretionary Use Rules contained in Sections D.2., excluding Sub-sections D.2.3, D.2.6., D.2.7 and D.2.8.

2.3 All minimum required front and side yards, except for accessways from public thoroughfares, shall be landscaped.

**D. DISCRETIONARY LAND USES**

**1. Discretionary Uses**

In addition to the following uses, those uses that are Permitted in buildings existing at the date of approval of this By-law shall be Discretionary in proposed buildings:

- Accessory buildings
- Amusement arcades
- Apartment buildings (C.U.)
- Apartment-hotels
- Athletic and recreational facilities
- Automotive sales and rentals\*\*
- Billiard parlours

Child care facilities  
 Commercial schools  
 Community association buildings  
 Drinking establishments (N.P.)  
 Entertainment establishments, excluding adult entertainment establishments\*  
 Financial establishments (C.U.)  
 Home occupations- Class 2 (N.P.)  
 Hostels  
 Hotels  
 Identification and directional signs  
 Liquor stores (N.P.)  
 Lodging houses  
 Mechanical reproduction and printing establishments  
 Medical clinics  
 Offices (C.U.)  
 Outdoor cafes (N.P.)  
 Parking areas (temporary)\*\*  
 Parking structures\*\*  
 Private clubs or organizations  
 Private schools  
 Public transportation facilities  
 Radio and television studios  
 Retail food stores  
 Senior citizens housing (C.U.)  
 Special care facilities  
 Stacked townhouses  
 Townhouses  
 Universities, colleges and provincial training centres (C.U.)  
 Veterinary clinics

See Section D.2.1(b)

Automotive uses, parking areas and parking structures shall only be allowed where sites front on primary and secondary roadways as illustrated on Map 1. Roadway Network, in Section 42.1 of By-law 2P80, as amended from time to time.

Note: C.U. - Certainty of Land Use is afforded applications which meet the requirements of Section 11 (2)(b) of By-law 2P80, except for offices and financial institutions on the ground and second floors, and medical clinics on the ground floor, and where there is a change of use from residential to any discretionary use.

N.P. - Notice Posting is required for these uses in accordance with Section 10(4) of By-law 2P80.

## **2. Discretionary Use Rules**

### 2.1 Compliance with other regulations:

(a) The General Rules for Commercial Districts contained in Section 33 and the General Rules for Downtown Districts contained in Section 42.1 of By-law 2P80 shall apply unless otherwise noted below. In the case of differing rules, the provisions of Section 42.1 shall supersede those of Section 33.

### 2.2 Definition of Residential and Commercial Uses:

For the purposes of this By-law:

- (a) Residential uses include Apartment buildings, Dwellings, Home occupations, Hostels, Lodging houses, Senior citizens housing, Stacked townhouses, and Townhouses; and
- (b) All other uses in the Permitted and Discretionary Use Lists in Sections C and D will be considered as commercial uses.

2.3 Gross Floor Area:

(a) Commercial Uses

- (i) All commercial development, regardless of density, shall provide all Group A features, to the satisfaction of the Approving Authority (see Fig.1).
- (ii) The maximum floor area ratio (FAR) allowed with the provision of all Group A features is 5.0.
- (iii) An additional 1.0 FAR, increasing the maximum FAR for commercial buildings from 5.0 to 6.0, may be achieved by a contribution to the Eau Claire Improvement Fund, at a rate to be determined in accordance with Council's approved policy.
- (iv) Up to an additional 1.0 FAR of commercial floor space, increasing the maximum allowed from 6.0 to 7.0 FAR, may be obtained by provision of Group B bonus features (Fig.2).

(b) Residential Uses

- (i) The maximum gross floor area for residential uses shall be 8.0 FAR, less any commercial density provided in accordance with Section D.2.3 (a).
- (ii) Residential buildings shall provide mandatory Group A features, with the exception of a contribution to the Plus 15 Fund, to the satisfaction of the Approving Authority.

2.4 Ground Floor Uses related to Barclay Mall

At least 50% of the net ground floor area in buildings located within 7.5 metres (24.6 feet) of the right-of-way of the Barclay Mall (3 St. W.), shall be occupied by hotel, retail, restaurant, cultural facilities, entertainment establishment, personal services business or similar uses to the satisfaction of the Approving Authority. Such uses shall be designed to be visible from and accessible to persons on the Barclay Mall.

2.5 Minimum Yards:

(a) Residential building:

- (i) Front yards - 3.0 metres (9.8 feet) for the portion of a building which is three storeys or less in height;

- 6.0 metres (19.6 feet) for the portion of a building over three storeys in height.
- (ii) Rear yards - 7.5 metres (24.6 feet)
- (iii) Side yards - 1.2 metres (3.9 feet) for the portion of a building up to two storeys in height;
- 3 metres (9.8 feet) for the portion of a building 3 - 6 storeys in height;
- 6 metres (19.7 feet) for the portion of a building over 6 storeys in height.

No rear or side yard is required for parking structures which do not require external maintenance and which are located to the rear or side of the building

(b) Commercial or mixed commercial/residential buildings:

- (i) Front yards - nil
- (ii) Side and rear yards - 3 metres (9.8 feet) where abutting a residential district.

No side or rear yard is required for parking structures which do not require external maintenance and which are located to the rear or side of the building.

2.6 Building form and siting:

- (a) The maximum number of storeys above grade and the maximum heights allowed for buildings on this site is 30 storeys and 109 metres (359 feet)
- (b) Buildings shall be designed and located to minimize overshadowing of abutting residential buildings.
- (c) Buildings shall be designed and located to minimize overshadowing of public and private open spaces both on and off site.
- (d) Sites abutting open space shall be sensitively designed to create a positive interface between the buildings and the open space, which clearly defines public, semi-private, and private open space.
- (e) Building design and layout shall respect views of the riverbank along 2 and 3 Streets W.
- (f) The design and layout of buildings fronting the Barclay Mall shall have regard for its function as a major pedestrian link between the downtown commercial core and the riverbank.
- (g) No building shall place more of the following areas in shadow, on the dates and times indicated, than was already in shadow as a result of buildings constructed at the date that the development permit application was made:

- (i) an area 20 metres wide throughout abutting the top of the south bank of the Bow River, between 3 and 7 Streets W., as determined in the Eau Claire Area Redevelopment Plan, from 10.00 a.m. to 4.00 p.m., Mountain Daylight Time on September 21;
  - (ii) an area 9 metres wide throughout abutting the top of the south bank of the Bow River, between 2 and 3 Streets W., as determined in the Eau Claire Area Redevelopment Plan, from 10.00 a.m. to 4.00 p.m., Mountain Daylight Time on September 21;
  - (iii) the westerly 8 metres of the right of way and setback area of the Barclay Mall, from 12.30 p.m. to 1.30 p.m., MDT, on September 21;
  - (iv) the easterly 8 metres of the right-of-way and setback area of the Barclay Mall from 1.30 to 2.30 p.m., MDT, on September 21;
  - (v) the area of the Barclay Plaza north of a line drawn parallel and 60 feet north of the 1 Ave. S. right-of-way prior to 2.30 p.m. on September 21.
- (h) Appropriate design and construction techniques shall be used to buffer dwelling units from noise, such as orienting outdoor areas and bedrooms away from noise sources, using alternate ventilation to minimize opening windows and using glass block walls or acoustically rated glazing.
  - (i) Residential unit design, orientation and screening shall enhance privacy.
  - (j) No window of a living room shall be located closer than a horizontal distance of 7.5 metres from a side or rear property line or 15.0 metres from the facing windows of any building on the same site. The Approving Authority may relax this distance to a minimum of 6.0 metres where it is satisfied that the design and layout of the buildings protects the privacy of residents and ensures that adequate daylight reaches each residential unit.
  - (k) Safety and a sense of security shall be fostered by such actions as maximizing opportunities for natural surveillance of sidewalks, entries, circulation routes, semi-private areas and parking entrances. Consideration should be given to grouping laundry facilities, amenity rooms and storage rooms for higher visibility and surveillance.
  - (l) Where mixed residential and commercial uses are allowed in a project, there should be a clear definition between residential and non-residential uses, with separate means of access and servicing.
  - (m) No dwelling other than a caretaker's residence shall be located below commercial floor space.
  - (n) The ground and second floors of a commercial or a mixed commercial and residential development shall be designed and built so as to be capable of accommodating a range of non-office commercial uses such as retail stores, entertainment establishments and restaurants.
  - (o) Design of new buildings should be sensitive to their relationship with historic structures and should seek to enhance their significance to the community.

- (p) In residential complexes which comprise 30 or more units, a meeting or recreation room of sufficient size to accommodate all residents shall be provided, in a visible location above grade and in proximity to either the entrance to the complex or other community facilities.
- (q) In order to develop a sense of identity for Eau Claire, on-site lighting, fixtures, furnishings and signage should be compatible with those proposed on public streets and lands.

## 2.7 Public Spaces

- (a) All indoor and outdoor public spaces, for which density has been granted, shall be:
  - (i) subject to a public access easement registered against the title of the property and satisfactory to the Approving Authority;
  - (ii) accessible to persons with push carts or carriages, the elderly, the physically handicapped and others whose mobility is impaired; and
  - (iii) maintained, including any landscaping, preserved heritage features, artwork, and special rights-of-way improvements, throughout the life of the building.
- (b) All indoor public spaces, including Plus 15 bridges, for which density has been granted, shall be illuminated, heated and cooled to the satisfaction of the Approving Authority for the life of the development.
- (c) Outdoor areas, covered by an awning or canopy, projecting a maximum of 1.5 metres are considered to be open to the sky.

## 2.8 Landscaping and Amenity Space:

- (a) Private outdoor amenity space shall be provided for multi-family dwelling units in accordance with Section 20(17) of By-law 2P80.
- (b) Where 50% or more of the gross floor area is comprised of dwelling units, a minimum of 40% of the gross site area shall be provided as common amenity space for all residents through a combination of indoor and outdoor spaces. This may include areas above grade.
- (c) All on-site horizontal surfaces other than private amenity space greater than 5.6 square metres in size, that are overlooked by dwelling units and not required for vehicular access, shall be usable and landscaped to the satisfaction of the Approving Authority.

## 2.9 Garbage Storage:

Garbage and waste material shall be stored in weatherproof and animal-proof containers in accordance with the Waste By-law and shall be visually screened from all adjacent sites and thoroughfares.

## 2.10 Parking and Loading:

- (a) Unless otherwise authorized by the Approving Authority, on-site parking and loading shall be in accordance with the provisions of Section 18 of By-law 2P80 for residential and commercial uses in the Downtown Parking Area, with the following exceptions:
  - (i) for residential units greater than 140 square metres (1,500 sq. ft.), a minimum of 1.5 stalls per dwelling unit;
  - (ii) for visitor parking, a minimum of 0.15 stalls per dwelling unit;
  - (iii) for residential uses , a cash-in-lieu payment is not allowed as a replacement for the physical provision of parking;
  - (iv) for commercial uses, a cash-in-lieu payment for required parking is only allowed where the Approving Authority is satisfied that it is not reasonably practical to provide all of the required parking on site or on an alternate site as provided for in Section 18(10)(b) of By-law 2P80.
- (b) Parking for bicycles at the rate of 1 space per five dwelling units shall be available in a secure and convenient location on-site in residential buildings with a common parking area. In commercial buildings, secure and convenient bicycle storage shall be provided in sufficient quantities as determined by the Approving Authority and located on a site-specific basis.
- (c) All at-grade or above-grade parking shall be landscaped and screened to the satisfaction of the Approving Authority, so as to minimize impact on adjacent residences and streetscapes.
- (d) Where loading bays are provided, they shall be covered and screened. They must be properly paved and finished with adequate signage and lighting. Where possible they shall be enclosed with overhead doors.
- (e) All vehicular access ways shall be located so as to minimize the disruption of traffic and pedestrian movement.
- (f) Parking, service, drop-off and loading areas shall be located to minimize the ingress of commercial traffic into residential areas.
- (g) Where loading bays are provided, they shall be covered and screened. They must be properly paved and finished with adequate signage and lighting. Where possible they shall be enclosed with overhead doors.

2.11 Floodway/floodplain regulations:

All structures located within the Bow River Floodplain shall comply with Section 19.1 of By-law 2P80, as amended from time to time, to the satisfaction of the Approving Authority.

2.12 Right-of-Way Setbacks

See Section 17 of By-law 2P80

2.13 Outside Storage



No outside storage shall be allowed.

#### 2.14 Signs

Signs shall comply with the Sign Appendix of By-law 2P80, with the following exceptions:

- (a) Notwithstanding Section 57(2)(a), temporary signs shall be prohibited.
- (b) Notwithstanding Section 59(15), electronic message centres shall be prohibited.
- (c) Notwithstanding Section 60(2), roof identification signs shall be prohibited.
- (d) Projecting identification signs shall be allowed on buildings with a commercial component, in accordance with Section 60(3)(b)(i).
- (e) Freestanding identification signs shall be allowed on properties with a commercial component, in accordance with Section 60(4)(c)(i).
- (f) Notwithstanding Section 60(9), painted wall identification signs shall be prohibited.
- (g) Window identification signs shall be allowed in windows of the commercial portion of buildings, in accordance with Section 60(10).
- (h) In interpreting the above regulations, the Approving Authority shall ensure that identification signs are compatible with the residential neighbourhood and are pedestrian in scale.

#### 2.15 Conditions of Development

In addition to the guidelines contained in this Direct Control District, the Approving Authority may impose conditions in a Development Permit as provided for in Section 11(2)(a)(i) of By-law 2P80.

#### 2.16 Development Permits

Approval of this District does not constitute approval of a Development Permit. Comprehensive plans, including building design, site layout, exterior finishes and colour, landscaping, parking and access shall be subsequently submitted to the Approving Authority as part of a Development Permit application.

\*\*\*See original bylaw for Figure 1 and Figure 2\*\*\*