



**SUBJECT: City initiated housekeeping amendments to Zoning By-law 2020**

**TO: Planning and Development Committee**

**FROM: Department of City Building - Planning Building and Culture**

Report Number: PB-64-18

Wards Affected: All

File Numbers: 520-03-01/17

Date to Committee: July 10, 2018

Date to Council: July 16, 2018

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**Recommendation:**

Approve the general amendments to Zoning By-law 2020 as outlined in department of city building report PB-64-18; and

Enact By-law 2020.394 as outlined in Appendix A to department of city building report PB-64-18.

**Purpose:**

This report recommends city-initiated general amendments to Zoning By-law 2020 to ensure that this document remains accurate, clear and up-to-date.

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**Background and Discussion:**

Since the adoption of Comprehensive Zoning By-law 2020 in June 1999, Planning staff have periodically prepared housekeeping amendments to the by-law. The most recent housekeeping by-law, enacted by Council in September 2015, was By-law 2020.359.

The purpose of the subject amendments is to update and correct regulations and maps contained in Zoning By-law 2020 so the By-law remains accurate, clear and up-to-date, and provides consistency for implementation and enforcement. The identified modifications are relatively minor and most are of a housekeeping nature.

Table 1 presents the staff-recommended changes to Zoning By-law 2020 and the explanation for the proposed change.

**TABLE 1 – PROPOSED ZONING BY-LAW CHANGES**

| RECOMMENDED ZONING BY-LAW CHANGE                  |   | STAFF EXPLANATION   |
|---|---|---|
| <b>PART 1 - GENERAL CONDITIONS AND PROVISIONS</b> |   |   |
| Rec. 1<br>City-wide                               | Amend Section 2.2, ACCESSORY BUILDINGS AND STRUCTURES AND UNITARY EQUIPMENT, Subsection 2.2.1 (b) (ii), as follows:<br><br>i. In the 3 <sup>rd</sup> bullet, delete “(not required)” following “Setback from a street side yard”;<br><br>ii. In the 4 <sup>th</sup> bullet, delete “Maximum encroachment” and replace it with “Maximum roof overhang encroachment from a wall”.   | To clarify that the 7.5 m street side yard setback is required for accessory buildings over 10 m <sup>2</sup> in floor area.<br><br>To clarify that encroachments refer to roof overhangs.  |
| Rec. 2<br>City-wide                               | Amend Section 2.2, ACCESSORY BUILDINGS AND STRUCTURES AND UNITARY EQUIPMENT, Subsection 2.2.1 (c) (ii) as follows:<br><br>i. In the 3 <sup>rd</sup> bullet, delete “(not required)” following “Setback from a street side yard”;<br><br>i. In the 4 <sup>th</sup> bullet, delete “Maximum floor area” and replace it with “Floor area”;<br><br>ii. In the 6 <sup>th</sup> bullet, delete “Maximum encroachment” and replace it with “Maximum roof overhang encroachment from a post”. | To clarify that the 7.5 m street side yard setback is required for accessory structures<br><br>To remove the reference to floor area since accessory structures are not enclosed.<br><br>To clarify that encroachments refer to roof overhangs. |
| Rec. 3<br>City-wide                               | Amend Section 2.3, PATIOS, DECKS, BALCONIES, AND PORCHES – RESIDENTIAL, Table 1.2.1 as follows:<br><br>i. In the 1 <sup>st</sup> column, 9 <sup>th</sup> row, delete “in a Rear Yard (See Illustration No. 1 – Side Yard)” so the regulation will read “Setback from a Side Lot Line”.  | To clarify the setback for decks in all side yards except street side yards.  |
| Rec. 4<br>City-wide                               | Amend Section 2.3, PATIOS, DECKS, BALCONIES, AND PORCHES – RESIDENTIAL, Footnotes to Table 1.2.1 (a) as follows:  |   |

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|                                  | <ul style="list-style-type: none"> <li>i. insert “(excluding stairs)” following the word “high” so the regulation will read: “(a) Total combined area of all platforms over 1.2 m high (excluding stairs)”.</li> </ul>  | To clarify that stairs are not included when determining maximum deck area.   |
| <p>Rec. 5<br/>City-wide</p>      | <p>Amend Section 2.4, FENCING AND PRIVACY SCREENS, Subsection 2.4.2 as follows:</p> <ul style="list-style-type: none"> <li>i. delete “Setback from the street” in Item (d) and replace it with “Setback from street line”;</li> <li>ii. insert a new subsection (f) as follow: “(f) Setback from a side lot line that extends from a common wall dividing dwelling units: 0 m”;</li> <li>iii. renumbering the existing subsections “(f)” and “(g)” to “(g)” and (h)”.</li> </ul>  | <p>To be consistent with the term used in the Zoning By-law definitions</p> <p>To eliminate the requirement for privacy screens to be setback 1 m from side lot lines that extend from common dividing walls of attached units.</p> |
| <p>Rec. 6<br/>City-wide</p>      | <p>Amend Section 2.22, PROHIBITED USES, Subsection (c) (vi) as follows:</p> <ul style="list-style-type: none"> <li>i. insert “, institutional” after the word “commercial” in the first line so the regulation now reads: “Where an existing permitted commercial, institutional or industrial use must vacate its premises while renovations to the premises are carried out, that use may continue to operate from the property in a temporary structure or trailer during the period of construction, for a maximum period of 6 months, provided that . . . ”</li> </ul> | To permit temporary structures to be used by institutional uses during renovations.   |
| <p>Rec. 7<br/>City-wide</p>      | <p>Amend Section 2.24, DRIVEWAY WIDTHS AND LANDSCAPED OPEN SPACE AREA, Subsection 2 (a) as follows:</p> <ul style="list-style-type: none"> <li>i. Insert “or through lot” after “corner lot” so the regulation now reads: “A maximum of one driveway shall be permitted for each residential property except in the case of a corner lot or through lot where a maximum of one driveway per street frontage may be permitted if the second driveway location is approved by the city.”</li> </ul>   | To permit through lots to have a maximum of one driveway per street frontage if the second driveway location is approved by the city.   |

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| <b>PART 3 - EMPLOYMENT ZONES</b> |   |   |
| Rec 8<br>City-wide               | <p>Amend Subsection 4.6, RETAIL SALES, as follows:</p> <ul style="list-style-type: none"> <li>i. delete Item 2 which states: “Permitted only where the use legally existed on the date of this By-law” and renumber the remaining sections accordingly;</li> <li>ii. amend Item 5 by inserting “the building used for the accessory retail sales or showroom shall be separated from” after “The area within” so the regulation will read: “The area within the building used for accessory retail sales or showroom shall be separated from the remainder of the facility by a permanent, solid, floor-to-ceiling and wall-to-wall partition, including closed doors.”</li> </ul>  | <p>To correct the By-law to be consistent with report PB-42-15 that introduced these regulations. The report states the intent to permit up to 15% accessory retail sales in employment zones was to support expansion of existing businesses and attract new businesses to the city’s employment lands. Requiring the use to be existing on the date the By-law was enacted in 2015 would not support new businesses.</p> <p>To insert missing words from the regulation in BC1 zones.</p> |
| Rec 9<br>City-wide               | <p>Amend Subsection 5.14, RETAIL SALES, as follows:</p> <ul style="list-style-type: none"> <li>i. delete Item 2 which states: “Permitted only where the use legally existed on the date of this By-law” and renumber the remaining sections accordingly;</li> <li>ii. amend Item 5 by inserting “the building used for the accessory retail sales or showroom shall be separated from” after “The area within” so the regulation will read: “The area within the building used for accessory retail sales or showroom shall be separated from the remainder of the facility by a permanent, solid, floor-to-ceiling and wall-to-wall partition, including closed doors.”</li> </ul> | <p>To correct the By-law for BC2 zones as described in Recommendation 8 above.</p>  |
| Rec 10<br>City-wide              | <p>Amend Subsection 6.10, RETAIL SALES, as follows:</p> <ul style="list-style-type: none"> <li>i. delete Item 2 which states: “Permitted only where the use legally existed on the date of this By-law” and renumber the remaining sections accordingly;</li> <li>ii. amend Item 5 by inserting “the building used for the accessory retail sales or</li> </ul>   | <p>To correct the By-law for GE1 and GE2 zones as described in Recommendation 9 above</p>   |

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|   | showroom shall be separated from” after “The area within” so the regulation will read: “The area within the building used for accessory retail sales or showroom shall be separated from the remainder of the facility by a permanent, solid, floor-to-ceiling and wall-to-wall partition, including closed doors.”   |  |
| <b>PART 14, EXCEPTIONS TO ZONE DESIGNATIONS</b> |   |  |
| Rec. 11<br>Ward 6                               | Amend Exception 74 as follows:<br>i. delete “H-“ in the second header column to reflect the correct zone of UCR1;<br>ii. delete Section (1) in its entirety;<br>iii. delete “(2) Upon removal of the ‘H’ Holding symbol, the following shall apply: (a) In addition to the UCR1 zone regulations, the following shall apply” and replacing it with “(1) Regulations”. | To correct an error. The holding zone was removed from this property (2000 Appleby Line) by By-law 2020.335 (Sept. 23, 2013) but did not remove the holding zone regulations from Exception 74.  |
| Rec. 12<br>Ward 6                               | Amend Exception 75 as follows:<br>i. delete “H-“ in the second header column to reflect the correct zone of UCR2;<br>ii. delete Section (1) in its entirety;<br>iii. delete “(2) Upon removal of the prefix Holding Zone symbol ‘H’, the following additional regulations apply” and replacing it with “(1) Regulations.”.  | To correct an error. The holding zone was removed from this property (2000 Appleby Line) by By-law 2020.335 (Sept. 23, 2013) but did not remove the holding zone regulations from Exception 75.  |
| Rec. 13<br>Ward 1                               | Amend Exception 96 as follows:<br>i. delete “Maximum floor area” and replace it with “Floor area”.  | To correct an error. The affected properties along Hazelton Blvd and Tamworth Crt were subject to a site-specific zoning by-law amendment under former Zoning By-law 4000-3. The previous exception states the regulations pertained to minimum floor areas. |
| Rec. 14<br>Ward 1                               | Amend Exception 346, Section 3, Additional Regulations for Office Uses, as follows:<br>i. in the 3 section, delete “Landscape Area Buffer” and replace it with “Landscape   | For clarification purposes as Landscape Areas and Landscape Buffers are separate terms in the Zoning By-law.   |

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|                                  | Buffer” so it reads “Landscape Buffer: 6 m abutting an R2.1 and R5 zone”   |  |
| Rec. 15<br>Ward 1                | <p>Amend Exception 392, Section 2, Regulations for permitted uses, as follows:</p> <ul style="list-style-type: none"> <li>i. delete “Prior to the removal of the ‘H’ Holding Symbol the following uses are permitted”;</li> <li>ii. delete “Following the removal of the ‘H’ Holding Symbol, the following additional uses are permitted.”;</li> <li>iii. delete “Required Parking prior to ‘H’ removal: 235 spaces” and replace it with “Required Parking: 357 spaces”;</li> <li>iv. delete the following section in its entirety: “<u>Required Parking following ‘H’ removal:</u> Parking will be provided in accordance with the findings of a parking study required as condition of H-removal to the satisfaction of the Director of Planning and the Director of Engineering”</li> </ul> | <p>For clarification purposes. The holding zone was removed from this property (4100 Upper Middle Road) by By-law 2020.370, enacted Nov 28, 2016. The parking study required for the H removal determined 357 spaces were required.</p>  |
| Rec. 16<br>Ward 6                | <p>Amend Exception 448, Section 1, Regulations, as follows:</p> <ul style="list-style-type: none"> <li>i. Delete the sentence “The lot shall be deemed to be one lot for the purposes of applying zoning regulations.”</li> </ul>  | <p>4853 Palladium Way was zoned BC1-448 in 2014 based on a plan proposing five buildings as a comprehensive development. The applicant subsequently abandoned this plan and Council approved a 10-lot plan of subdivision in July 2017 with a requirement that zoning issues be addressed prior to registration. The proposed revisions will permit development to occur on individual lots.</p> |
| Rec. 17<br>Ward 5                | <p>Amend Exception 452, as follows:</p> <ul style="list-style-type: none"> <li>i. In Section 3, Regulations, Subsection i) Hotel; Minimum Yards east; add “from property line” following 16 m</li> <li>ii. In Section 4, delete “The lands zoned MXE-452” in the first line and replace them with “The property zoned MXE-452 and O2”</li> </ul>   | <p>Part 1, Section 1.7.1 (g) of the Zoning By-law provides that where a property has two or more zoning designations, the zoning boundary between the designations shall be the limit from which zoning regulations apply. The corrections are required to reflect the intent of the site specific zoning for 1215 Appleby Line that the 16 m east</p>   |

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|                                  |  | side yard is from the property line and not the internal zoning line, and to permit a common element condominium to be registered on the entire property.  |
| Rec. 18<br>Ward 1                | Amend Exception 466, Section 2, <u>Regulations for Place of Worship</u> , as follows:<br><br>i. In the 5 <sup>th</sup> regulation, delete the word “Buffer” following “Landscape” and replace it with “Area” so the regulation will read: “Landscape Area abutting Waterdown Road” | To correct an error. The rezoning of 1350 Waterdown Rd in 2017 was based on plans with a driveway from Waterdown Rd. The Zoning By-law allows driveways to cross Landscape Areas but not Landscape Buffers so an amendment is required to permit development of the site.  |
| <b>PART 15, ZONING MAPS</b>      |  |  |
| Rec. 19<br>Ward 1                | Amend Map 3 as follows:<br><br>i. rezone 1047 Gallagher Road from “P” to “R2.1” and add this property to the Designated Area for Lot Coverage.   | To correct an error. This property was rezoned to P during the comprehensive zoning by-law review in 1999 however the City has no plans to acquire the property to expand Aldershot Park. Rezoning to an R2.1 zone, similar to other residential properties on the street, permits the owner to apply for additions or accessory buildings subject to the R2.1 zone regulations. |
| Rec. 20<br>Ward 2                | Amend Map 9 as follows:<br><br>i. rezone 731, 733, 737, 739, 743 and part of 745 Hager Avenue from “RH1” to “RM2”.   | To correct an error. These properties were developed in 1975 with semi-detached dwellings, a use that is not permitted in the RH1 zone. Further, 743 and 745 Hager Avenue are attached units with one unit zoned RH1 and the other zoned both RH1 and RM2. RM2 is the zone applicable to the semi-detached dwellings north of these properties.                                  |
| Rec. 21<br>Ward 6                | Amend Map 29 as follows:<br><br>i. rezone part of the surplus right-of-way at the southwest corner of Orchard Road and Dryden Ave from “RO2-252” to “D”.   | To correct an error. RO2-252 is a site-specific zone applicable to townhouse developments on the north side of Dryden Ave. Rezoning the surplus right-of-way on the south side of Dryden Ave to a D zone provides it with the same   |

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|                                  |  | zone as the property to the south at 2254 Orchard Rd which it needs to be assembled with to accommodate future development. |

Outstanding Issue

Staff were asked to review a concern raised by property owners representing 56-130 Fairwood Place West concerning the replacement of their second level rear decks as part of the zoning by-law housekeeping report. These properties include 6 blocks of townhouses (36 units) that were developed in the 1980s as townhouse blocks and later subdivided to create individual lots. As a result of creating individual lots, the existing rear decks, which extend from lot line to lot line, do not meet the side yard requirements outlined in Table 1.2.1 of the Zoning By-law as listed below.

Table 1.2.1

| Regulations for Decks associated with Detached, Semi-Detached, Duplex, Triplex, Fourplex, and Street Townhouse Dwelling Units |   |                         |                        |
|---|---|-------------------------|------------------------|
| Regulation  | Deck Requirements                               |                         |                        |
|   | Over 60 cm to 1.2 m High                        | Over 1.2 m High         |                        |
|   |   | Up to 15 m <sup>2</sup> | Over 15 m <sup>2</sup> |
| Maximum Deck Area (a)   | no maximum                                      | 15 m <sup>2</sup>       | 30 m <sup>2</sup>      |
| Permitted in a Front Yard   | no  | no                      | no                     |
| Permitted in a Rear Yard  | yes   | yes                     | yes                    |
| Permitted in a Side Yard  | yes   | yes                     | yes                    |
| Setback from a Street Line  | 3 m   | 4.5 m                   | 6 m                    |
| Setback from a Rear Lot Line  | 1.8 m   | 4.5 m                   | 6 m                    |
| Setback from a Side Lot Line in a Rear Yard (See Illustration No. 1 –Side Yard)   | 1.2 m (b)                                       | 1.8 m (b)               | 3 m                    |
| Maximum coverage (c)  | 50% of the yard area in which decks are located |                         |                        |

**Footnotes to Table 1.2.1**

- (a) Total combined area of all platforms over 1.2 m high
- (b) Where a side lot line extends from a common wall dividing attached dwelling units the setback shall not apply.
- (c) Coverage means the surface area of a yard which may be covered by decks.

Concerning privacy screens, the following regulations in Part 1, Section 2.4 of Zoning By-law 2020 apply:

2.4.2 Privacy screens are permitted on decks and balconies for detached, semi-detached, duplex, triplex, fourplex, and townhouse dwellings subject to the following regulations:

- (a) Maximum height from grade 2.5 m
- (b) Maximum height from platform 1.8 m
- (c) Enclosed on two sides only

|   |       |
|---|-------|
| (d) Setback from the street                       | 9 m   |
| (e) Setback from side lot line                    | 1 m   |
| (f) Setback from a rear lot line                  | 1.5 m |
| (g) Combined length of privacy screens (per unit) | 12 m  |

The Zoning By-law requires a 3 m side yard setback for decks greater than 1.2 m in height, and over 15 m<sup>2</sup> in area and a 1 m setback for the privacy screen. The existing decks have a 0 m setback therefore owners seeking to replace these decks are required to apply for a minor variance to permit a reduced setback for the deck and privacy screen from the side lot line. In 2017 the city processed 4 minor variance applications for deck replacements/expansions. These applications had similar 0 m setback requests, along with site specific variances seeking increases in height of privacy screens on some lots. The property owners are seeking a solution that would eliminate the need for up to 34 future variance applications seeking deck replacement.

To amend regulations for decks and privacy screens in Zoning By-law 2020, a more comprehensive assessment and broader consultation is required concerning the impacts of larger decks and reduced setbacks in all zones. Changes to these regulations have therefore not been included in Report PB-64-18. To respond to the concerns raised above, planning staff propose to consult with property owners at 56-130 Fairwood Place West and Conservation Halton over the Summer months. Staff anticipate reporting back in Fall 2018 on options, which may include bringing forward a site-specific zoning exception that would address setbacks for decks and privacy screens for this particular development.

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### **Financial Matters:**

Not applicable

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### **Public Engagement Matters:**

In accordance with the policies of the City's Official Plan for general or city-wide Zoning By-law amendments, notice of the subject public meeting was provided by way of a newspaper notice in the Burlington Post thirty days prior to the public meeting. A letter outlining all of the proposed amendments was also sent to all external public agencies thirty days in advance of the public meeting.

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**Conclusion:**

The recommended staff-initiated amendments to Zoning By-law 2020 will ensure that the By-law remains accurate, clear and up-to-date. The proposed amendments meet the intent of the Burlington Official Plan and conform to applicable Provincial Plans.

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Respectfully submitted,

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**Appendices:**

A. Zoning By-law 2020.394

**Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.