



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

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-39-22

Wards Affected: All

File Numbers: 520-03-01/22

Date to Committee: May 10, 2022

Date to Council: May 17, 2022

Recommendation:

Approve the proposed amendments to Zoning By-law 2020 as outlined in community planning department report PL-39-22; and

Enact By-law 2020.441 as outlined in Appendix A to community planning report PL-39-22.

PURPOSE:

This report recommends City-initiated general amendments to Zoning By-law 2020 addressing general matters of accuracy and clarity.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth

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-laws, enacted by Council in June 2021, were By-laws 2020.429, 2020.430, and 2020.431.

The purpose of the subject amendments is to update regulations contained in Zoning By-law 2020 so the by-law remains accurate and clear while providing consistency for

implementation and enforcement. The identified modifications are minor and considered to be of a housekeeping nature.

Table 1 presents the proposed amendments to Zoning By-law 2020 and the staff explanation to provide context.

TABLE 1 – PROPOSED ZONING BY-LAW AMENDMENTS

PROPOSED ZONING BY-LAW AMENDMENT		STAFF EXPLANATION
PART 1 - GENERAL CONDITIONS AND PROVISIONS		
1 City-wide	<p>Amend Section 1.1 COMPLIANCE WITH OTHER REGULATIONS, as follows:</p> <ul style="list-style-type: none"> i. Add: “Where there is a conflict between provisions of this By-Law, the most restrictive regulation shall prevail.” ii. The regulation now reads as: <ul style="list-style-type: none"> (a) “The standards, regulations, and requirements contained in this By-Law shall apply to all lands and properties located within the corporate limits of the City of Burlington as they now exist, or as they may hereafter be enlarged or diminished. (b) Where the provisions of this By-Law conflict with the regulations or requirements of any other Regional, Provincial, or Federal Government or an agency established by the Provincial or Federal Government, the regulations or requirements of that Government or agency shall prevail. (c) Where there is a conflict with a provision of this By-Law and the Niagara Escarpment Plan, the provision of the Niagara Escarpment Plan prevails. (d) Where there is a conflict between provisions of this By-Law, the most restrictive regulation shall prevail.” 	<p>To reformat this section to include paragraph numbering and a provision requiring the use of the most restrictive regulation when there are conflicting requirements within the Zoning By-Law.</p>

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<p>2 City-wide</p>	<p>Amend Section 1.6 COMPLIANCE WITH THIS BY-LAW, Subsection 1.6.1 (l) as follows:</p> <ul style="list-style-type: none"> i. Delete: “Nothing in this By-law shall prevent the restoration or repair to a safe condition of any building or structure or part of any building or structure that has been deemed unsafe by the Chief Building Official, provided the restoration and repair will not increase the height and/or size of the building or structure, or change the use of the building or structure and provided that the use has not ceased active continuous operation for a period of two years.” ii. Replace with: “Nothing in this By-law shall prevent the restoration or repair to a safe condition of any building or structure or part of any building or structure that has been deemed unsafe by a Professional Engineer, provided the restoration or repair will not change the use or increase the height, size or volume of the building or structure and provided that the use has not ceased active continuous operation for a period of two years.” iii. The regulation now reads as: “Nothing in this By-law shall prevent the restoration or repair to a safe condition of any building or structure or part of any building or structure that has been deemed unsafe by a Professional Engineer, provided the restoration or repair will not change the use or increase the height, size or volume of the building or structure and provided that the use has not ceased active continuous operation for a period of two years.” 	<p>To replace the requirement for the Chief Building Official to deem the structure unsafe and replace it with a Professional Engineer. To clarify that the restoration or repair is not to increase the height, size or volume of a building or structure.</p>
<p>3 City-wide</p>	<p>Amend Section 1.6 COMPLIANCE WITH THIS BY-LAW, Subsection 1.6.1 by adding Subsection (n) as follows:</p> <ul style="list-style-type: none"> i. “Nothing in this By-Law will prevent the reconstruction of a lawfully established 	<p>To align the Zoning By-law with Provincial jurisprudence which allows property owners the absolute right to voluntarily demolish and reconstruct all or part of lawfully established use,</p>

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	<p>and existing building or structure in whole or in part, provided the reconstruction will not increase the height, size, volume or location of the building or structure.”</p>	<p>building or structure in a “like for like” situation within the same building envelope regardless of current Zoning regulations.</p> <p>This will improve overall customer experience and eliminate the need for unnecessary committee of adjustment applications by protecting a property owner’s right to continue to use a property in the manner it was lawfully established.</p>
<p>4 City Wide</p>	<p>Amend Section 2.3 PATIOS, DECKS, BALCONIES, AND PORCHES - RESIDENTIAL, Subsection 2.3.2 (b) as follows:</p> <ul style="list-style-type: none"> i. Delete: “Decks located above the first storey in the side and rear yard of detached dwellings are not permitted.” ii. Replace with: “Decks located above the first storey on a wall facing the side and rear yard of detached dwellings are not permitted.” iii. The regulation now reads as: “Decks located above the first storey on a wall facing the side and rear yard of detached dwellings are not permitted. <p>The above shall not apply to Uptown Centre, Orchard Community and Alton Community zones.”</p>	<p>To provide further clarity on the appropriate location for decks located above the first storey.</p>
<p>5 City-wide</p>	<p>Amend Section 2.3 PATIOS, DECKS, BALCONIES, AND PORCHES - RESIDENTIAL, Subsection 2.3.3 (a) as follows:</p> <ul style="list-style-type: none"> i. Delete: “Balconies located above the first storey in the side and rear yard of detached dwellings are not permitted.” ii. Replace with: “Balconies located above the first storey on a wall facing the side and rear yard of detached dwellings are not permitted.” 	<p>To provide further clarity on the appropriate location for balconies located above the first storey.</p>

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	<p>iii. The regulation now reads as: "Balconies located above the first storey on a wall facing the side and rear yard of detached dwellings are not permitted.</p> <p>The above shall not apply to Uptown Centre, Orchard Community and Alton Community zones."</p>	
<p>6 City-wide</p>	<p>Amend Section 2.4 FENCING AND PRIVACY SCREENS, Subsection 2.4.2 as follows:</p> <p>i. Delete: "Privacy screens are permitted on decks and balconies for detached, semi-detached, duplex, triplex, fourplex and townhouse dwellings subject to the following regulations:"</p> <p>ii. Replace with: "Privacy screens are permitted on decks and balconies for detached, semi-detached, duplex, triplex, fourplex, townhouse, street townhouse, back-to-back and stacked townhouse dwellings subject to the following regulations:"</p> <p>iii. The regulation now reads as: "Privacy screens are permitted on decks and balconies for detached, semi-detached, duplex, triplex, fourplex, townhouse, street townhouse, back-to-back and stacked townhouse dwellings subject to the following regulations:"</p>	<p>To clarify that privacy screens are permitted on all Low and Medium Density residential units including street townhouses, back-to-back and stacked townhouse dwelling types.</p>
<p>7 City-wide</p>	<p>Amend Section 2.5 SWIMMING POOLS, Subsection 2.5.1 (a) (iii) as follows:</p> <p>i. Delete: "property line".</p> <p>ii. Replace with: "lot line".</p> <p>iii. The regulation now reads as: "In-ground pools shall be setback 1.5 m from a lot line or street line, measured from the inside wall of the pool."</p>	<p>To replace the word "property line" with "lot line" which is a defined term in the Zoning By-law.</p>

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8 City-wide	<p>Amend Section 2.5 SWIMMING POOLS, Subsection 2.5.1 (a) (iv) as follows:</p> <ul style="list-style-type: none"> i. Delete: "Above-ground pools shall be set back from a property line or street line 1.5 m plus 30 cm for each 30 cm that the top of the pool wall is above the grade elevation at the property line, measured from the inside wall of the pool." ii. Replace with: "Above-ground and On-ground pools shall be setback 1.5 m from a lot line or street line, plus an additional setback equal to the height of the pool, measured from the lowest point of grade at the perimeter of the pool. The setback is measured from the lot line or street line to the inside wall of the pool." iii. The regulation now reads as: "Above-ground and On-ground pools shall be setback 1.5 m from a lot line or street line, plus an additional setback equal to the height of the pool, measured from the lowest point of grade at the perimeter of the pool. The setback is measured from the lot line or street line to the inside wall of the pool." 	To simplify the measurement of setbacks for pools and include "on-ground pools" which are partially located above grade.
9 City-wide	<p>Amend Section 2.22 PROHIBITED USES, Subsection (c) (iii) as follows:</p> <ul style="list-style-type: none"> i. Delete: "for a maximum of three occasions in a 12 month period, subject to a maximum of 10 days duration per occasion." ii. Replace with: "for a maximum of 30 days in a calendar year." iii. The regulation now reads as: "Tents or trailers may be used for a special occasion or special sale of goods or merchandise in conjunction with a permitted use, for a maximum of 30 days in a calendar year." 	To allow businesses the flexibility to use tents or trailers on a seasonal basis.
PART 2 – RESIDENTIAL ZONES		

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10 City-wide	<p>Amend Section 4, R1, R2, R3 ZONE REGULATIONS, Subsection 4.2 LOT COVERAGE, as follows:</p> <p>Delete: "LOT COVERAGE."</p> <p>Replace with: "MAXIMUM LOT COVERAGE."</p>	To further clarify that lot coverage regulations are a maximum and not a minimum.
11 City-wide	<p>Amend Section 4, R1, R2, R3 ZONE REGULATIONS, Subsection 4.8 (b) GARAGES as follows:</p> <ul style="list-style-type: none"> i. Delete: "An attached garage with a garage door facing the street is not permitted to project beyond the front wall on the first storey of a dwelling." ii. Replace with: "An attached garage with a garage door facing a street is not permitted to project beyond the longest portion of a wall facing a street and containing residential floor area on the first storey of a dwelling." iii. The regulation now reads as: "An attached garage with a garage door facing a street is not permitted to project beyond the longest portion of a wall facing a street and containing residential floor area on the first storey of a dwelling." 	To clarify the intent of this regulation by including garage doors facing any street (i.e. corner lots) and the attached garage is not permitted to project beyond the longest portion of a wall of a dwelling.
PART 4 – COMMERCIAL ZONES		
12 City-wide	<p>Amend Section 4, CR ZONE REGULATIONS, Subsection 4.6 (c) OUTDOOR STORAGE, Section 5, CE ZONE REGULATIONS, Subsection 5.9 (c) OUTDOOR STORAGE, Section 6, CC1 & CC2 ZONE REGULATIONS, Subsection 6.8 (c) OUTSIDE STORAGE, Section 7, CN1 & CN2 ZONE REGULATIONS, Subsection 7.6 (c) OUTDOOR STORAGE as follows:</p> <ul style="list-style-type: none"> i. Delete: "Subsection 2.2.2." ii. Replace with: "Subsection 2.2.3". 	To correct a numbering error.

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	<p>iii. The regulation now reads as: “Non-perishable waste stored outside on lands abutting a residential zone shall be kept within a solid screen enclosure subject to Part 1, Subsection 2.2.3.”</p>	
PART 5- MIXED-USE CORRIDOR ZONES		
<p>13 City-wide</p>	<p>Amend Section 4, MXG, MXC, MXE, MXT ZONE REGULATIONS, Subsection 4.7 (c) OUTSIDE STORAGE as follows:</p> <p>i. Delete: “Subsection 2.2.2.”</p> <p>ii. Replace with: “Subsection 2.2.3”.</p> <p>iii. The regulation now reads as: “Non-perishable waste stored outside on lands abutting a residential zone shall be kept within a solid screen enclosure subject to Part 1, Subsection 2.2.3.”</p>	<p>To correct a numbering error.</p>
PART 6 – DOWNTOWN MIXED-USE CENTRE ZONES		
<p>14 City-wide</p>	<p>Amend Section 4, DC, DW, DL-A & DL-B ZONE REGULATIONS, Subsection 4.8 (c) OUTSIDE STORAGE as follows:</p> <p>i. Delete: “Subsection 2.2.2.”</p> <p>ii. Replace with: “Subsection 2.2.3”.</p> <p>iii. The regulation now reads as: “Any non-perishable waste stored outside on lands abutting a residential or DRL zone, or where visible from the street, shall be kept within a solid screen enclosure subject to Part 1, Subsection 2.2.3. Waste compactors are not permitted in a yard abutting a residential zone and shall be screened from view from a residential zone and from a street.”</p>	<p>To correct a numbering error.</p>
PART 7- UPTOWN MIXED-USE CENTRE ZONES		
<p>15 City-wide</p>	<p>Amend Section 4, UCR1 TO UOP ZONE REGULATIONS, Subsection 4.6 (c) OUTSIDE STORAGE as follows:</p> <p>i. Delete: “Subsection 2.2.1 (c).”</p>	<p>To correct a numbering error.</p>

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	<ul style="list-style-type: none"> ii. Replace with: "Subsection 2.2.3". iii. The regulation now reads as: "Non-perishable waste stored outside on lands abutting a URM zone shall be kept within a solid screen enclosure subject to Part 1, Subsection 2.2.3." 	
PART 14 - EXCEPTIONS TO ZONE DESIGNATIONS		
16 Ward 6	<p>Amend Exception 493, Subsection 4, f) ii) Required Parking, as follows:</p> <ul style="list-style-type: none"> i. Delete: "4916 Thomas Alton Boulevard." ii. Replace with: "3200-3210 Dakota Common." iii. The regulation now reads as: Notwithstanding Part 1, Section 2.25.1, to provide the required off street visitor parking on the adjacent site to the north municipally known as 3200-3210 Dakota Common. 	To correct an addressing change as a result of the approved plan of common element condominium. The address of the property changed from 4916 Thomas Alton Boulevard to 3200-3210 Dakota Common.
PART 16 - DEFINITIONS		
17 City-wide	<p>Amend the definition of Floor Area, as follows:</p> <ul style="list-style-type: none"> i. Delete: "For Accessory Buildings or Structures, floor area means the total area of all floors measured to the outside of all exterior walls." ii. Replace with: "For Accessory Buildings or Structures, floor area means the total area of all floors measured to the outside of all exterior walls or posts." iii. The definition now reads as: "The total area of the floor measured to the outside of all outside walls or the centre of common walls, excluding any basement, cellar, garage, carport, unenclosed porch, or unenclosed veranda. A basement associated with a restaurant use, used for storage purposes shall not be included in 	To provide clarity with the definition of floor area for accessory buildings or structures by specifying that accessory buildings attached to a roofed over structure with posts (i.e. hybrid buildings) are included in maximum floor area.

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	the calculation of permitted floor area. For Accessory Buildings or Structures, floor area means the total area of all floors measured to the outside of all exterior walls or posts. Storage area may be included within the roofline.”	
18 City-wide	<p>Amend the definition of Landscape Area, by adding the following:</p> <ul style="list-style-type: none"> i. Add: “Snow storage and transformers are not permitted in a required landscape area”. ii. The definition now reads as: “An area of land within a lot dedicated to the planting of trees, shrubs, flower beds, or a combination thereof and which may include other decorative landscape features. A Landscape Area may be crossed by a driveway or walkway provided it is substantially perpendicular to the Landscape Area. A ground sign may be located within a Landscape Area. A Landscape Buffer may be included in the calculation of Landscape Area. Snow storage and transformers are not permitted in a required landscape area.” 	To provide additional clarity with the definition of landscape area that identifies appropriate landscape elements within this space and to specifically exclude snow storage and transformers.
19 City-wide	<p>Amend the definition of Landscape Buffer, as follows:</p> <ul style="list-style-type: none"> i. Delete: “Snow storage is not permitted in a required landscape buffer.” ii. Replace with: “Snow storage and transformers are not permitted in a required landscape buffer.” iii. The definition now reads as: “The area of a lot which serves to provide separation and to partially obstruct the view of adjacent land uses by means of a dense landscape screen consisting of evergreen trees or a combination of solid screen fencing and evergreen or deciduous trees. Snow storage and transformers are not permitted in a required landscape buffer.” 	To provide clarity with the definition of landscape buffer by specifying appropriate landscape elements within this space and to specifically exclude transformers in a required landscape buffer in addition to snow storage.

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20 City-wide	<p>Amend the definition of Landscaped Open Space Area, as follows:</p> <ul style="list-style-type: none"> i. Delete: “including a walkway, but does not include a driveway, ramp, or parking area, whether surfaced or not, or any open space beneath a building or structure.” ii. Replace with: “but does not include a walkway, driveway, ramp, or parking area, whether surfaced or not, or any open space beneath a building or structure”. iii. The definition now reads as: “An open, unobstructed space between a property line and a building elevation facing a street, excluding any permitted encroachment into a required yard, which is dedicated to the growth and maintenance of grass, flowers, shrubs, trees, and other landscaping, but does not include a walkway, driveway, ramp, or parking area, whether surfaced or not, or any open space beneath a building or structure. <p>A walkway shall not be used as a driveway or parking area.”</p>	<p>To provide clarity with the definition of landscaped open space area by removing the reference to ‘walkway’ to align with the Driveway Widths and Landscaped Open Space Area requirements found Part 1, Section 2.24 of the Zoning By-law.</p>
21 City-wide	<p>Amend the definition of Porch, as follows:</p> <ul style="list-style-type: none"> i. Add: “located in a front or street side yard.” ii. The definition now reads as: “A platform located in a front or street side yard, with or without a foundation and/or basement with at least one (1) side open, that may be covered by a roof, with direct access to the ground and is attached to a dwelling.” 	<p>To provide clarity with the definition of porch by specifying that a porch is permitted in a front or street side yard. Decks are permitted in all other yards subject to Part 2, Section 2.3, Table 1.2.1 and 1.2.2.</p>
22 City-wide	<p>Amend the definition of Storey, Half, as follows:</p>	<p>To reformat the definition of half storey to provide clarity and to</p>

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<ul style="list-style-type: none"> i. Delete: "That portion of a dwelling situated within the roof and having its floor level not lower than 1.2 metres, measured from the point where the roof and any exterior wall of the dwelling meet, and in which there is sufficient space to provide a height between finished floor and finished ceiling of at least 2.2 metres. ii. Replace with: "That portion of a dwelling situated within a hip, gable or gambrel roof and in which: <ul style="list-style-type: none"> (a) The floor level is not lower than 1.2 metres, measured from the point where the roof and any exterior wall of the dwelling meet; (b) There is sufficient space to provide a height between finished floor and finished ceiling of at least 2.2 metres." iii. The definition now reads as: "That portion of a dwelling situated within a hip, gable or gambrel roof and in which: <ul style="list-style-type: none"> (a) The floor level is not lower than 1.2 metres, measured from the point where the roof and any exterior wall of the dwelling meet; (b) There is sufficient space to provide a height between finished floor and finished ceiling of at least 2.2 metres." 	<p>include various roof types that are permitted to enclose this space.</p>
<p>23 City-wide</p> <p>Amend the definition of Unitary Equipment, as follows:</p> <ul style="list-style-type: none"> i. Delete: "Includes central air conditioning units, heat pumps, and swimming pool filters." ii. Replace with: "Includes central air conditioning units, heat pumps, residential generators, and swimming pool filters." 	<p>To amend the definition of unitary equipment to include "residential generators" as they are becoming increasingly common and to allow the location to be regulated Under Part 1, Section 2.2 Accessory Buildings and Structures and Unitary Equipment.</p>

Financial Matters:

Not Applicable

Total Financial Impact

Not Applicable

Source of Funding

Not Applicable

Other Resource Impacts

Not Applicable

Climate Implications

Not Applicable

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.

Conclusion:

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

Respectfully submitted,

Jamie Tellier, MCIP RPP

Manager of Planning Implementation

905-335-7600 ext. 7892

Appendices:

- A. Zoning By-law 2020.441

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.