

The Corporation of the City of Burlington

City of Burlington By-Law 2020.441

A By-law to amend By-law 2020, as amended

File No.: 520-03-01/22 (PL-39-22)

Whereas Section 34(1) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, states that Zoning By-laws may be passed by the councils of local municipalities; and

Whereas the Council of the Corporation of the City of Burlington approved the Recommendations in report PL-39-22 on May 17, 2022, for city-initiated general amendments to Zoning By-law 2020, as amended;

The Council of the Corporation of the City of Burlington hereby enacts s follows:

1. PART 1 of By-law 2020, General Conditions and Provisions, Section 1.1 – COMPLIANCE WITH OTHER REGULATIONS, be amended by:

- i. Deleting: “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.

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.

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.”; and

- ii. Replacing it with:
 - (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.”
2. PART 1 of By-law 2020, General Conditions and Provisions, Section 1.6 – COMPLIANCE WITH THIS BY-LAW, Subsection 1.6.1 (l) be amended by:
- i. Deleting: “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.”; and
 - ii. Replacing it 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.”
3. PART 1 of By-law 2020, General Conditions and Provisions, Section 1.6 – COMPLIANCE WITH THIS BY-LAW, Subsection 1.6.1 be amended by:
- i. Adding: “(n) Nothing in this By-Law will prevent the reconstruction of a lawfully established 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.”

4. PART 1 of By-law 2020, General Conditions and Provisions, Section 2.3 – PATIOS, DECKS, BALCONIES, AND PORCHES-RESIDENTIAL, Subsection 2.3.2 (b) be amended by:
 - i. Deleting: “Decks located above the first storey in the side and rear yard of detached dwellings are not permitted.”; and
 - ii. Replacing it with: “Decks located above the first storey on a wall facing the side and rear yard of detached dwellings are not permitted.”

5. PART 1 of By-law 2020, General Conditions and Provisions, Section 2.3 – PATIOS, DECKS, BALCONIES, AND PORCHES-RESIDENTIAL, Subsection 2.3.3 (a) be amended by:
 - i. Deleting: “Balconies located above the first storey in the side and rear yard of detached dwellings are not permitted.”; and
 - ii. Replacing it with: “Balconies located above the first storey on a wall facing the side and rear yard of detached dwellings are not permitted.”

6. PART 1 of By-law 2020, General Conditions and Provisions, Section 2.4 FENCING AND PRIVACY SCREENS, Subsection 2.4.2 be amended by:
 - i. Deleting: “Privacy screens are permitted on decks and balconies for detached, semi-detached, duplex, triplex, fourplex and townhouse dwellings subject to the following regulations:”; and
 - ii. Replacing it 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:”

7. PART 1 of By-law 2020, General Conditions and Provisions, Section 2.5 SWIMMING POOLS, Subsection 2.5.1 (a) (iii) be amended by:
 - i. Deleting: “property line”; and

- ii. Replacing it with: “lot line”.
8. PART 1 of By-law 2020, General Conditions and Provisions, Section 2.5 SWIMMING POOLS, Subsection 2.5.1 (a) (iv) be amended by:
- i. Deleting: “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.”; and
 - ii. Replacing it 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.”
9. PART 1 of By-law 2020, General Conditions and Provisions, Section 2.22 PROHIBITED USES, Subsection (c) (iii) be amended by:
- i. Deleting: “for a maximum of three occasions in a 12 month period, subject to a maximum of 10 days duration per occasion.”; and
 - ii. Replacing it with: “for a maximum of 30 days in a calendar year.”
10. PART 2 of By-law 2020, Residential Zones, Section 4. R1, R2, R3 ZONE REGULATIONS, Subsection 4.2 LOT COVERAGE, be amended by:
- i. Deleting: “LOT COVERAGE”; and
 - ii. Replacing it with: “MAXIMUM LOT COVERAGE”.
11. PART 2 of By-law 2020, Residential Zones, Section 4. R1, R2, R3 ZONE REGULATIONS, Subsection 4.8 (b) GARAGES, be amended by:
- i. Deleting: “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.”; and

- ii. Replacing it 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.”

12. PART 4 of By-law 2020, Commercial Zones, Section 4. CR ZONE REGULATIONS (REGIONAL COMMERCIAL), Subsection 4.6 (c) OUTDOOR STORAGE, be amended by:

- i. Deleting: “Subsection 2.2.2”; and
- ii. Replacing it with: “Subsection 2.2.3”.

13. PART 4 of By-law 2020, Commercial Zones, Section 5. CE ZONE REGULATIONS (EMPLOYMENT COMMERCIAL), Subsection 5.9 (c) OUTDOOR STORAGE, be amended by:

- i. Deleting: “Subsection 2.2.2”; and
- ii. Replacing it with: “Subsection 2.2.3”.

14. PART 4 of By-law 2020, Commercial Zones, Section 6. CC1 & CC2 ZONE REGULATIONS (COMMUNITY COMMERCIAL), Subsection 6.8 (c) OUTSIDE STORAGE, be amended by:

- i. Deleting: “Subsection 2.2.2”; and
- ii. Replacing it with: “Subsection 2.2.3”.

15. PART 4 of By-law 2020, Commercial Zones, Section 7. CN1 & CN2 ZONE REGULATIONS (NEIGHBOURHOOD COMMERCIAL), Subsection 7.6 (c) OUTDOOR STORAGE, be amended by:

- i. Deleting: “Subsection 2.2.2”; and
- ii. Replacing it with: “Subsection 2.2.3”.

16. PART 5 of By-law 2020, Mixed-Use Corridor Zones, Section 4. MXG, MXC, MXE, MXT ZONE REGULATIONS, Subsection 4.7 (c) OUTSIDE STORAGE, be amended by:
 - i. Deleting: "Subsection 2.2.2"; and
 - ii. Replacing it with: "Subsection 2.2.3".

17. PART 6 of By-law 2020, Downtown Mixed-Use Centre Zones, Section 4. DC, DW, DL-A & DL-B ZONE REGULATIONS, Subsection 4.8 (c) OUTSIDE STORAGE, be amended by:
 - i. Deleting: "Subsection 2.2.2"; and
 - ii. Replacing it with: "Subsection 2.2.3".

18. PART 7 of By-law 2020, Uptown Mixed-Use Centre Zones, Section 4. UCR1 TO UOP ZONE REGULATIONS, Subsection 4.6 (c) OUTSIDE STORAGE, be amended by:
 - i. Deleting: "Subsection 2.2.1 (c)"; and
 - ii. Replacing it with: "Subsection 2.2.3".

19. PART 14 of By-law 2020, Exceptions to Zone Designations, Exception 493, Subsection 4. f) ii Required Parking, be amended by:
 - i. Deleting: "4916 Thomas Alton Boulevard"; and
 - ii. Replacing it with: "3200-3210 Dakota Common."

20. PART 16 of By-law 2020, Definitions, Floor Area, be amended by:
 - i. Deleting: "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, car port, unenclosed porch, or unenclosed veranda. A basement

associated with a restaurant use, used for storage purposes shall not be included in 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. Storage area may be included within the roofline.”; and

- ii. Replacing it with: “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 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.”

21. PART 16 of By-law 2020, Definitions, Landscape Area, be amended by:

- i. Deleting: “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.”; and
- ii. Replacing it with: “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.”

22. PART 16 of By-law 2020, Definitions, Landscape Buffer, be amended by:

- i. Deleting: “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 is not permitted in a required landscape buffer.”; and

- ii. Replacing it with: “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.”

23. PART 16 of By-law 2020, Definitions, Landscaped Open Space Area, be amended by:

- i. Deleting: “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 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.

A walkway shall not be used as a driveway or parking area.”; and

- ii. Replacing it with: “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.

A walkway shall not be used as a driveway or parking area.”

24. PART 16 of By-law 2020, Definitions, Porch, be amended by:

- i. Deleting: “A platform, 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.”; and

- ii. Replacing it with: “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.”

25. PART 16 of By-law 2020, Definitions, Storey, Half, be amended by:

- i. Deleting: “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.”; and
- ii. Replacing it with: “That portion of a dwelling situated within a hip, gable or gambrel roof and in which:
 - (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.”

26. PART 16 of By-law 2020, Definitions, Unitary Equipment, be amended by:

- i. Deleting: “Includes central air conditioning units, heat pumps, and swimming pool filters.”; and
- ii. Replacing it with: “Includes central air conditioning units, heat pumps, residential generators, and swimming pool filters.”

When no notice of appeal is filed pursuant to the provisions of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, this By-law shall be deemed to have come into force on the day it was passed.

If one or more appeals are filed pursuant to the provisions of the *Planning Act*, as amended, this By-law does not come into force until all appeals have been finally

disposed of, and except for such parts as are repealed or amended in accordance with an order of the Ontario Land Tribunal this By-law shall be deemed to have come into force on the day it was passed.

Enacted and passed this 17th day of May, 2022.

Mayor Marianne Meed Ward _____

City Clerk Kevin Arjoon _____

EXPLANATION OF PURPOSE AND EFFECT OF BY-LAW 2020.441

By-law 2020.441 is a general by-law that will amend various parts of the City's Zoning By-law 2020, as amended, for the purposes of updating, clarifying and correcting various provisions and regulations in the zoning by-law.

For further information regarding By-law 2020.441, please contact Jamie Tellier, Manager of Planning Implementation, Burlington Community Planning Department at (905) 335-7600 extension 7892.