



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 19, 2019
<b>SUBJECT/REPORT NO:</b>	Modifications and Updates to the City of Hamilton Zoning By-law No. 05-200 (PED19029) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Timothy Lee (905) 546-2424 Ext. 1249
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That approval be given to City Initiative CI-18-J, for modifications and updates to the City of Hamilton Zoning By-law No. 05-200 on the following basis:

- (i) That the Draft By-law, attached as Appendix “A” to Report PED19029 which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (ii) That the proposed change in zoning is in conformity with the Urban Hamilton Official Plan (UHOP);
- (iii) That the proposed Zoning By-law Amendment is consistent with the Provincial Policy Statement (PPS), 2014 and conforms to the Growth Plan for the Greater Golden Horseshoe, 2017.

**EXECUTIVE SUMMARY**

Staff continue to monitor City of Hamilton Zoning By-law No. 05-200 and, where necessary, bring forward amendments to ensure the By-law remains up-to-date, and any clarification and interpretation issues are resolved. A Draft By-law (see Appendix “A” to Report PED19029) is included in this Report and contains amendment to City of Hamilton Zoning By-law No. 05-200 with the majority of these changes relating to the Transit Oriented Corridor (TOC) Zones and the in effect regulations of Commercial and Mixed Use (CMU) Zones and the associated amended regulations. These changes are:

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- To correct general inconsistencies in numbering, terminology, and cross-referencing throughout Hamilton Zoning By-law No. 05-200;
- To amend certain definitions (Section 3);
- To add further clarity to certain zone regulations in the General Provision (Section 4) and Parking (Section 5) sections of the By-law;
- To amend certain zone regulations in the Open Space and Parks (Section 7), Industrial (Section 9), and Rural (Section 12) Zones;
- To amend certain regulations in the CMU and TOC Zones to create further consistencies and clarity across all Zones;
- To correct numbering and typographical errors to existing Special Exceptions (Schedule “C”) and Holding Provisions (Schedule “D”); and,
- To include site specific lands within a CMU Zone which were Council approved through a Zoning By-law Amendment application between November 2017 and November 2018, and include any special modifications to Schedule “C” – Special Exceptions to reflect the Council decisions on these applications.

The draft Zoning By-law also includes general technical and typographical amendments to certain parts of Hamilton Zoning By-law No. 05-200. These amendments were identified through consultations with Building Services Division staff.

The above amendment to Hamilton Zoning By-law No. 05-200 conforms to the Urban Hamilton Official Plan, conforms to, and is consistent with Provincial legislation.

***Alternatives for Consideration – See Page 11***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an Zoning By-law Amendment. Notice of these Amendments has been posted in the Hamilton Spectator, as required by the *Planning Act*.

## **HISTORICAL BACKGROUND**

### **Comprehensive Hamilton Zoning By-law No. 05-200**

The City of Hamilton Zoning By-law No. 05-200 is being completed in phases. The following phases and the year of adoption are as follows:

Downtown	2005 and updated in 2018
Open Space and Parks	2006
Institutional	2007
Industrial	2010 and updated in 2015
Rural	2015
Transit Oriented Corridor (TOC)	2016, updated in 2018
Waterfront	2017
Commercial and Mixed Use Zones	2017

The last major phase is the Residential Zones that are currently being developed.

Zoning By-law No. 05-200 is intended to be a “living document” which is monitored and amended on an on-going basis. Zoning By-law Reform staff continues to work with Development Planning, Heritage and Design Section, Building Division staff, and other stakeholders to identify any general text and mapping amendments that should be undertaken to provide clarity and consistency in the Zoning By-law. The purpose of this report is to bring forward a By-law which includes text and associated mapping amendments.

A draft By-law has been prepared and attached to this Report (see Appendix “A” to Report PED19029) to amend Hamilton Zoning By-law No. 05-200. The majority of the amendments relate to typographical and technical updates to the CMU and TOC Zones, and also text and mapping amendments to Special Exceptions (Schedule “C”) and Holding Provisions (Schedule “D”). In addition, there are general amendments to Hamilton Zoning By-law No. 05-200 as a result of consultations with Building Services staff. These administrative amendments can be characterized as typographical, technical, and associated mapping changes to the Zoning By-law.

### **Commercial and Mixed Use Zones (By-law 17-240)**

The CMU Zones and associated amendments and additions with respect to Definitions, General Provisions, and Parking zone regulations were approved by Council on November 8, 2017 as By-law No. 17-240. However, the By-law was appealed by a total of twenty appellants to the LPAT. The appeals received pertain to certain built form, parking, and independent/site specific appeals.

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A pre-hearing was held on October 10, 2018 to seek direction by the LPAT to approve portions of By-law 17-240 that were not appealed. On November 16, 2018, the uncontested portions of By-law 17-240 went in force and effect, while the rest of the By-law remains under appeal. Consequently, staff have prepared a draft By-law (See Appendix "A") to include modifications and updates to the CMU Zones as part of a regular monitoring program and to provide amendments for clarity and consistency subsequent to certain portions of By-law No. 17-240 coming into effect. The housekeeping amendments apply only to in effect regulations and not the appealed regulations.

Certain Zoning By-law Amendment applications facilitating future commercial development were brought forward to Planning Committee between November 2017 and November 2018. Draft Zoning By-laws amending Hamilton Zoning By-law No. 05-200 included in these staff reports were approved in principle but have been held in abeyance pending the CMU Zones coming into effect. As the CMU Zones are now in effect, these draft Zoning By-laws can now be brought forward to Council for adoption, and are being done by staff on file.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Planning Policy Framework**

The Provincial planning policy framework is established through the Planning Act (Section 3), the Provincial Policy Statement (PPS 2014), and the Growth Plan for the Greater Golden Horseshoe (the Growth Plan). The Planning Act requires that all municipal land use decisions affecting planning matters be consistent with the PPS and conform to the Growth Plan.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board (now LPAT) approval of the Urban Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. No changes to the UHOP and RHOP are required to implement the Zoning By-law amendment.

Based on the foregoing, it is staff's opinion that these amendments:

- Are consistent with the Provincial Policy Statement (2014);
- Conform to the Growth Plan for the Greater Golden Horseshoe; and,
- Conform to the Greenbelt Plan.

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## **Rural and Urban Hamilton Official Plan**

The extent of the modifications and updates to Hamilton Zoning By-law No. 05-200 are administrative in nature and comply with both Rural Hamilton Official Plan (RHOP) and the Urban Hamilton Official Plan (UHOP). No changes are required to the UHOP and RHOP in order to implement the Zoning By-law Amendment.

## **RELEVANT CONSULTATION**

Staff within the Planning Division, and Zoning staff in the Building Services Division of the Planning and Economic Development Department, were consulted throughout the process to identify interpretation or implementation related issues with the policies of the Official Plans and zone regulations of Hamilton. The interpretation and implementation related issues have been added to the draft Zoning By-law (see Appendix “A” to Report PED19029), and the rationale for the amendments are located in Appendices “B” to “M” to Report PED19029.

Notice of these amendments has been posted in the Hamilton Spectator on February 1, 2019.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

To address corrections and additions to Hamilton Zoning By-law No. 05-200, a draft Zoning By-law is included in this Report (See Appendix “A”) with the majority of the amendments relate to the CMU and TOC Zones. For ease of implementation and understanding, the report includes a set of Appendices (see Appendices “B” to “M” to Report PED19029) to provide rationale and discussion of each amendment.

### **1.0 CMU Amendments to the Hamilton Zoning By-law No. 05-200, as amended by By-law No. 17-240**

The list below is a summary of the amendment as it relates to the in effect regulations of CMU Zone and associated regulations.

- |                                   |  |
|-----------------------------------|--|
| <b>Section 3</b><br>(Definitions) | <ul style="list-style-type: none"><li>• Amend existing definitions for Dwelling Unit in Conjunction with a Commercial Use, Landscaping Parking Island, and Motor Vehicle Dealership.</li><li>• See Appendix “B” to Report PED19029.</li></ul>  |
| <b>Section 5</b><br>(Parking)     | <ul style="list-style-type: none"><li>• Amend existing parking design regulations to provide clarity and in the Landscaped Areas and Landscaped Parking Islands, Barrier-Free Parking, and Bicycle Parking requirements.</li><li>• Amendment to a regulation to implement a Council approved staff</li></ul> |

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direction through Report PED17089.

- See Appendix “D” to Report PED19029.

**Section 10**  
(CMU Zones)

- General typographical, numbering, and cross-referencing corrections.
- Minimum Interior Side Yard Setback for C4, C5, and C5a Zones is amended to apply only when abutting Residential or Institutional Zone contains ground-related residential uses such as Single-Detached and Semi-Detached Dwellings.
- Add Minimum Amenity Space requirements for C5a Zone.
- See Appendices “G-1” to “G-8” to Report PED19029.

**Section 13**  
(Utility Zones)

- General wording updates to existing zone regulations.
- See Appendix “J” to Report PED19029.

**Schedule “C”**  
(Special Exceptions)

- General typographical, numbering, and cross-referencing corrections to existing Special Exceptions.
- Add new Special Exceptions of properties where the Zoning By-law Amendment application was approved prior to the approval of the CMU Zones.
- See Appendix “K” to Report PED19029.

**Schedule “D”**  
(Holding Provisions)

- General typographical, numbering, and cross-referencing corrections to existing Holding Provisions.
- To add an additional property municipally known as 3079 Binbrook Road due to a previously Council approved Zoning By-law.
- See Appendix “L” to Report PED19029.

**Mapping Amendments**

- To rezone properties to a CMU Zone including 1405 Upper Ottawa Street, Hamilton; 9255 Airport Road, Glanbrook; 3079 Homestead Drive, Glanbrook; 118 Hatt Street, Dundas; 52-62 Ottawa Street, Hamilton; 30 Rymal Road, Hamilton; Part of 1546 Main Street West, Hamilton; and, 3079 Binbrook Road.
- To correct the Holding Provision number for properties located in Stoney Creek.
- See Appendix “M” to Report PED19029.

**2.0 Corrections and Technical Changes to the Hamilton Zoning By-law No. 05-200**

In addition to the above amendment related to the CMU Zone, the draft By-law (see Appendix “A” to Report PED19029) also includes corrections and technical changes to certain regulations of Hamilton Zoning By-law No. 05-200 . For ease of implementation

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and understanding, the report includes a set of Appendices (see Appendices “B” to “M” to Report PED19029) to provide rationale and discussion of each amendment.

The following list is a summary of the general amendments to Hamilton Zoning By-law No. 05-200.

- Section 3**  
(Definitions)
- Amended Definitions: Agricultural Brewery/Cidery/ Winery, Commercial Entertainment, Conference or Convention Centre, Health Professional, Motor Vehicle – Commercial, and Emergency Shelter
  - New Definition: Farm Implement Dealership
  - See Appendix “B” to Report PED19029
- Section 4**  
(General Provisions)
- Update the General Provisions section to provide clarity in language for Permitted Yard Encroachments, Visual Barrier, Temporary Uses, and Home Businesses for Single-Detached Dwellings and Semi-Detached Dwellings.
  - See Appendix “C” to Report PED19029
- Section 5**  
(Parking)
- Amendment to parallel parking regulations to provide clarity and further consistency in interpretation.
  - See Appendix “D” to Report PED19029
- Section 7**  
(Open Space and Parks Zones)
- Add new regulation to the Conservation/Hazard Land – Rural (P7) and (P8) Zones for existing accessory buildings and structures that have been demolished and rebuilt.
  - See Appendix “E” to Report PED19029
- Section 9**  
(Industrial Zones)
- Add wording to an existing zone regulation in the Prestige Business Park (M3) Zone, Light Industrial (M6) Zone, and the Airport Prestige Business (M11) Zone to provide require location restriction requirements for Alcohol Production Facilities.
  - Amend the maximum Yard Abutting a Street from 25.0 metres to 27.0 metres in the Airport Prestige Business (M11) Zone.
  - Clarity on permitting Motor Vehicle Washing Establishment in certain zones.
  - See Appendix “F” to Report PED19029
- Section 11**  
(Transit Oriented Corridor Zones)
- General typographical, numbering, and cross-referencing corrections.
  - Minimum Interior Side Yard Setback for C4, C5, and C5a Zones is amended to apply only when abutting Residential or Institutional Zone contains ground-related residential uses such as Single-

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- Detached and Semi-Detached Dwellings.
  - General formatting changes to TOC3 Zone by moving commercial uses from subsection 11.3.1 – Permitted Uses to subsection 11.3.1.1ii) – Restrictions of Existing Commercial Uses to recognize use restrictions for commercial uses.
  - See Appendices “H-1” to “H-3” to Report PED19029
- Section 12**  
(Rural Zones)
- General typographical, numbering, and cross-referencing corrections to certain zone regulations.
  - See Appendix “I” to Report PED19029
- Schedule “C”  
– Special  
Exceptions**
- To insert additional regulation cross-referencing zone and parking requirements for certain lands with the Rural Zones.
  - Assign a new Special Exception number for 706 Highway No. 8, Flamborough due to a Special Exception number being assigned twice.
  - Zone boundary adjustment for 4080 Hall Road, Glanbrook to be consistent with By-law 464-47-99 which was approved by the Town of Glanbrook Council in 1999.
  - See Appendix “J” to Report PED19029
- Mapping  
Amendments**
- General mapping amendments in the rural area to correct zone boundaries due to a previous Council adopted By-law under the former Municipal Zoning By-law. Does not affect the intent of the zone.
  - See Appendix “M” to Report PED19029

## **2.1 Modification and Updates to CMU Special Exceptions**

The amendments to Schedule “C” - Special Exceptions of Hamilton Zoning By-law No. 05-200 include the addition of Special Exceptions for commercial properties where a previous Zoning By-law Amendment application was approved by Council prior to the approval of By-law No. 17-240. These commercial properties were specifically left out from the CMU Zone project to allow for these applications to be processed unabated. It was the intent to add these properties to the CMU Zones once the CMU Zones were in effect. The properties include:

- 1405 Upper Ottawa Street, Hamilton;
- 9255 Airport Road, Glanbrook;
- 3079 Homestead Drive, Glanbrook;
- 118 Hatt Street, Dundas;
- 52-62 Ottawa Street, Hamilton;
- 30 Rymal Road East, Hamilton; and,

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- 3079 Binbrook Road, Glanbrook.

With the exception of 30 Rymal Road East, all the above mentioned commercial properties include a Special Exception. Greater detail and rationale to the proposed amendments discussed above are contained in Appendix “J” to Report PED19029.

## **2.2 Properties Continue to be Left Out of CMU**

In addition to the above properties identified in Section 2.1 of this Report, there are additional properties that continue to be left out of the CMU Zones because the associated planning applications have not been brought forward to Council for consideration, or the application has been appealed to LPAT. Upon such time that the applications are brought forward to Council, the draft By-law will be modifying the CMU Zones. These properties are also listed in Appendix “M” to Report PED19029.

<b>Municipal Address</b>	<b>Planning Applications</b>
157 Upper Centennial Parkway	ZAC-16-056
1809, 1817, 1821 Rymal Road East	UHOPA-17-15 / ZAC-16-064
64 Hatt Street	ZAR-15-004
3033, 3047, 3055, 3063 Binbrook Road	UHOPA-16-51 / ZAC-16-051
3100 – 3140 Regional Road 56	UHOPA-16-19 / ZAC-16-054
165 Upper Centennial Parkway	UHOPA-15-007(R) / ZAC-15-015(R)
383 Dundas Street East & 4 First Street	ZAC-15-055

## **2.3 Commercial Properties added to CMU that were Held in Abeyance**

Subsequent to Council approval of By-law 17-240 in November 2017, there have been a number of Council adopted Zoning By-laws to facilitate future commercial development. Included in respective staff reports for Council consideration, a recommendation was also included to approve a draft By-law to amend Hamilton Zoning By-law No. 05-200 but be held in abeyance until the CMU Zones are in force and effect. The table on Page 10 identifies the applications where amendments to the zoning by-laws under the former municipal zoning by-law have been adopted by Council but the amending by-laws to Hamilton Zoning By-law No. 05-200 have been held in abeyance.

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As By-law 17-240 is now in force and effect, staff will bring forward those By-laws that have been held in abeyance to Council for adoption.

Municipal Address	Planning Applications	Date of Council Adoption
952-954 Concession Street	ZAR-17-010	August 16, 2018 (Decision by LPAT)
9255 Airport Road	ZAC-07-111(R)	January 24, 2018
417, 419, 421, 423 Highway 8, 176 Millen Road, 175 Margaret Avenue	UHOPA-17-15 ZAC-17- 028	April 11, 2018
500 Upper Wellington Street	ZAC-17-061	April 25, 2018
84, 86, 88, 90, 92, 94, 96 Lakeview Drive	UHOPA-17-009 ZAC-17-020	May 23, 2018
21 Mill Street North	ZAR-18-011	July 13, 2018
121, 125 Highway 8	ZAC-17-085	August 17, 2018
3331 Homestead Drive	UHOPA-18-03 ZAC-18-007	September 26, 2018
567 Scenic Drive	ZAC-17-030	September 26, 2018
928 Queenston Road	UHOPA-17-020 ZAC-17-049	September 26, 2018

**3.0 Restricted Uses in the Transit Oriented Corridor (TOC3) Zone**

In anticipation of the construction of the LRT along Main and King Streets, the Transit Oriented Corridor Zones were approved by Council on October 12, 2016. The Transit Oriented Corridor Multiple Residential (TOC3) Zone are mainly located along King Street East between Sherman Avenue and Dunsmure Road, and site specific locations east of Red Hill Expressway.

Although the TOC3 Zone allows residential uses, the zone recognizes existing commercial uses within existing buildings along the corridor. The draft By-law (see Appendix “A” to Report PED19029) provides further clarity on the intent to permit commercial uses but in restricted circumstances by restricting the By-law to relocate

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commercial uses from Section 11.3.1: Permitted Uses to a new regulation under Subsection 11.3.1.1: Restricted Uses.

The effect of this change is to allow commercial uses to exist along the corridor. However, commercial uses are limited to buildings existing at the date of passing of the by-law, and where the commercial use was legally established.

For example, an artist studio that is located in a building that has existed prior to the passing the by-law (being October 12, 2016) is allowed to continue operations and the use is permitted. If the commercial space is vacated and the new tenant wishes to place a new use, then this would also be permitted. This has always been the intent of this Zone and will continue to do so with this amendment.

## **ALTERNATIVES FOR CONSIDERATION**

If the proposed By-law amendment is not approved, inconsistencies in the interpretation and application of Hamilton Zoning By-law No. 05-200 may occur.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

### **Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

### **Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Draft City of Hamilton Zoning By-law No. 05-200 Amendment

Amendments to Definitions, General Provisions, Parking, and Industrial Zones:

Appendix “B” – Summary of Proposed Modifications to Section 3: Definitions

Appendix “C” – Summary of Proposed Modifications to Section 4: General Provisions

Appendix “D” – Summary of Proposed Modifications to Section 5: Parking

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- Appendix “E” – Summary of Proposed Modifications to Section 7: Open Space and Parks Zones
- Appendix “F” – Summary of Proposed Modifications to Section 9: Industrial Zones

Amendments to CMU Zones:

- Appendix “G-1” – Summary of Proposed Modifications to Section 10: Residential Character Commercial (C1) Zone
- Appendix “G-2” – Summary of Proposed Modifications to Section 10: Commercial Neighbourhood Commercial (C2) Zone
- Appendix “G-3” – Summary of Proposed Modifications to Section 10: Community Commercial (C3) Zone
- Appendix “G-4” – Summary of Proposed Modifications to Section 10: Mixed Use High Density (C4) Zone
- Appendix “G-5” – Summary of Proposed Modifications to Section 10: Mixed Use Medium Density (C5) Zone
- Appendix “G-6” – Summary of Proposed Modifications to Section 10: Mixed Use Medium Density – Pedestrian Focus (C5a) Zone
- Appendix “G-7” – Summary of Proposed Modifications to Section 10: Commercial Zones – District Commercial (C6) Zone
- Appendix “G-8” – Summary of Proposed Modifications to Section 10: Commercial Zones – Arterial Commercial (C7) Zone

Amendments to TOC Zones:

- Appendix “H-1” – Summary of Proposed Modifications to Section 11: Transit Oriented Corridor (TOC1) Zone
- Appendix “H-2” – Summary of Proposed Modifications to Section 11: Transit Oriented Corridor Local Commercial (TOC2) Zone
- Appendix “H-3” – Summary of Proposed Modifications to Section 11: Transit Oriented Corridor Multiple Residential (TOC3) Zone

Amendments to Rural and Parking Zones, Schedule “C”, and Schedule “D”, and Mapping:

- Appendix “I” – Summary of Proposed Modifications to Section 12: Rural Zones
- Appendix “J” – Summary of Proposed Modifications to Section 13: Parking (U3) Zone
- Appendix “K” – Summary of Proposed Modifications to Schedule “C”
- Appendix “L” – Summary of Proposed Modifications to Schedule “D”
- Appendix “M” – Summary of Proposed Site-Specific Mapping Amendments

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Additional Information:

Appendix "N" – Planning Applications that remain in process and not added to CMU Zones