



Hamilton

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Strategic Services and Special Projects Division**

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| <b>TO:</b> Chair and Members<br>Planning Committee  | <b>WARD(S) AFFECTED:</b> CITY WIDE                        |
| <b>COMMITTEE DATE:</b> April 17, 2012   |   |
| <b>SUBJECT/REPORT NO:</b><br>Housekeeping Amendments to Comprehensive Zoning By-law 05-200 (PED12015(a))<br>(City Wide) |   |
| <b>SUBMITTED BY:</b><br>Tim McCabe<br>General Manager<br>Planning and Economic Development<br>Department                | <b>PREPARED BY:</b><br>Al Fletcher 905-546-2424 Ext. 5802 |
| <b>SIGNATURE:</b>   |   |

**RECOMMENDATION:**

- (a) That approval be given to **City Initiative CI-12-E** to provide housekeeping amendments to the City’s Comprehensive Zoning By-law known as Zoning By-law 05-200.
- (b) That the attached draft Zoning By-law, marked as Appendix “A” to Report PED12015(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (c) That the changes proposed are minor in nature and pursuant to Section (34)17 of the Planning Act, Council determines that no further notice is to be given in respect of the proposed by-law.

**EXECUTIVE SUMMARY**

At the January 31, 2012 Planning Committee, a portion of this Report was approved and the remainder referred back to staff to have discussions with two residents who spoke at the meeting. Their concerns related to the regulations being proposed and related to the prohibition of accessory buildings within the front yard and required flankage yards. Meetings were held with each resident and the matters have been resolved.

The following additional amendments, unrelated to the presenters concerns, were not reviewed by Committee:

- Clarify the definition of “yard” to reflect that it is relative to any building on a property versus only the “main” building; and,
- Clarify the parking requirements within the downtown whereby additional parking requirements for existing buildings is only relative to the additions related to increase in gross floor area and/or increase in number of dwelling units, whichever shall apply.

*Alternatives for Consideration – See Page 5 or Not Applicable*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial:** Not applicable

**Staffing:** Not applicable

**Legal:** As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for Official Plan Amendments and Zoning By-law Amendments. Public Notice as per the Planning Act has been provided in the Hamilton Spectator. As this was a City-initiated Official Plan Amendment and Zoning By-law with City-wide effects, no notification by mail or sign on the property was required, per Council policies.

**HISTORICAL BACKGROUND (Chronology of events)**

Since the adoption of the original stage of the Comprehensive Zoning By-law in 2005, staff has committed to continued monitoring of the document to ensure that the document remains user friendly and easily interpreted. Through discussions with staff, some errors have been found, as well as, a couple changes proposed to assist with

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interpretation issues. Further, the City has acquired additional lands for park purposes which now can be zoned within the new Comprehensive Zoning By-law.

The Report was presented at the January 31, 2012 Planning Committee where Mr. Wayne Clayton and Mr. Victor Veri attended and expressed concerns with the proposed amendments related to changes proposed to the setback requirements for Accessory Buildings within the Industrial Zones. The By-law was approved in part with the remainder of the housekeeping issues to be brought back to Committee once discussions had been held with Mr. Clayton and Mr. Veri.

**POLICY IMPLICATIONS**

No policy implications.

**RELEVANT CONSULTATION**

Housekeeping amendments being undertaken are as a result of consultation with City staff since November 2011.

As a result of the presentations at Planning Committee by Mr. Clayton and Mr. Veri, further consultation was held with each party.

Mr. Clayton

In a meeting held with Mr. Clayton and Councillor Johnson, Mr. Clayton provided his comments regarding some recent developments, outdoor storage and issues related to the locational permissions of accessory buildings within the Industrial Zones. The proposed regulations were proposing to not permit accessory buildings within the front yard or the required flankage yard. Mr. Clayton provided examples where the difference in flankage yards between buildings built under the former City of Stoney Creek Zoning By-law which would allow for areas between the required flankage yard and the setback building where accessory buildings could be built. This is not the intent of the regulations and as such we are proposing to amend the proposal to prohibit accessory buildings in a flankage yard versus required flankage yard. This change will result in no accessory buildings being built between a street and the front or side of a building which will maintain the intent of the By-law.

Also, Mr. Clayton expressed concerns regarding an exception to the Accessory Building locational requirement which would allow accessory buildings for security purposes to be permitted within the front or flankage yards. Within larger industrial developments, security buildings are not uncommon to restrict access either by pedestrian or vehicles. However on smaller developments, a security building has the potential of setting the front yard setback and may detract from the prestige type of development on the lands. It is proposed that for properties 6.0 ha or less, that should a security building be

proposed that it be subject of a variance to allow staff to judge the merit of locating such building within a front yard or flankage yard. A building for security purposes would be permitted as of right if located outside the front yard or flankage yard. It will be incumbent on staff to ensure that these buildings are only for security purposes otherwise they will be required seek variances to the By-law where the merit of the accessory building in the yard can be reviewed.

Mr. Veri

In a meeting with Mr. Veri, his concerns related to the restrictions of accessory buildings within the flankage yard would result in overly restrictive regulations affecting the viability of businesses. Through an explanation that a flankage yard is the yard between the street and the building and not an interior side yard, Mr. Veri appeared to be satisfied with the proposed regulations and has no further concerns.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

**Comprehensive Zoning By-law 05-200**

Since the implementation of the first phase of the Comprehensive Zoning By-law, staff committed to ensure the document is monitored so that it remains relevant, implementing the intent and any corrections are completed in a timely manner. This report deals with the following amendments:

1. Clarify the definition of “yard” to reflect that it is relative to any building on a property versus just the “main” building:
  - the current definition of “yard” refers to the linear distance between the property line and the nearest portion of the main building whereas the definitions of “flankage yard”, “front yard”, “rear yard” and “side yard” do not refer to distance to the “main” building which has cause some interpretation issues; and,
  - with the proposed change to the By-law, by replacing the word “main” with “any”, the definitions are now consistent.
  
2. Clarify the parking requirements within the downtown whereby additional parking requirements for existing buildings is only relative to the additions related to increase in gross floor area and/or increase in number of dwelling units, whichever applies:
  - within the parking requirements for the downtown, any permitted use can occupy an existing building and the only parking requirement is that the existing parking be maintained becoming the required parking for the use.

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- should the building be subject of an addition, parking shall be required for the increased gross floor area;
  - the existing definition has been interpreted where the increase in parking is based on gross floor area, e.g. office space, but does apply if the increase floor area increases the number of residential units; and,
  - the proposed change to the By-law provides for parking to be provided whether it relates to increase in gross floor area or dwelling units.
3. Provide for regulations within the Industrial Zones prohibiting accessory buildings to be located within the Front Yard or Flankage Yards:
- the new industrial zones require that accessory buildings be subject of the same zoning regulations as any principle building on the property; and,
  - the proposed changes will prohibit accessory buildings within the front yard as well as not being permitted within the flankage yards.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the amendments not be undertaken, the new Comprehensive Zoning By-law would not be consistent and may lead to interpretations which do not implement the intent of the By-law.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

***Skilled, Innovative & Respectful Organization***

- ◆ A culture of excellence
- ◆ A skilled, adaptive and diverse workforce, i.e. more flexible staff
- ◆ Housekeeping Amendments will provide for clearer, consistent wording to provide for easier interpretation of the Comprehensive Zoning By-law.

**APPENDICES / SCHEDULES**

Appendix A – Housekeeping Amendments to By-law 05-200

AF:cb

**Authority:** Item [REDACTED], Planning Committee  
Report 12-[REDACTED] (PED12015(a))  
CM: [REDACTED]

**Bill No.**

## **CITY OF HAMILTON**

**BY-LAW No. [REDACTED]**

### **Housekeeping Amendments to By-law 05-200**

**WHEREAS** the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

**AND WHEREAS** the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law 05-200;

**AND WHEREAS** it was desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

**AND WHEREAS** this By-law provides for housekeeping amendments to By-law 05-200, as hereinafter described and depicted;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Section [REDACTED] of Report [REDACTED] of the Planning Committee at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

**AND WHEREAS** this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Section 3, of By-law 05-200, be amended by deleting "main" and replacing it with "any" in the definition of Yard, and adding the words "but shall not be measured to a building required for security within any Industrial Zone."

2. That Section 5.6 b), of By-law 05-200, be amended by adding "or increased number of dwelling units, whichever shall apply." after the words "of the building".
3. That Section 9.1.3, of By-law 05-200, be amended by adding the following section:
  - "i) Accessory Buildings i) In accordance with the requirements of Section 9.1.3;
  - ii) In addition to i) above, no accessory building shall be permitted within a front yard or a flankage yard, except where the structure is for security purposes."
4. That Section 9.2.3 k), of By-law 05-200, be deleted in its entirety and replaced with the following:
  - "k) Accessory Buildings i) In accordance with the requirements of Section 9.2.3;
  - ii) In addition to i) above, no accessory building shall be permitted within a front yard or a flankage yard, except where the structure is for security purposes."
5. That Section 9.3.3 q), of By-law 05-200, be deleted in its entirety and replaced with the following:
  - "q) Accessory Buildings i) In accordance with the requirements of Section 9.3.3;
  - ii) In addition to i) above, no accessory building shall be permitted within a front yard or a flankage yard.
  - iii) Notwithstanding ii) above, a structure(s) for security purposes shall be permitted within a front yard or flankage yard on lots greater than 6.0 ha in size."
6. That Section 9.4.3 r), of By-law 05-200, be deleted in its entirety and replaced with the following:

- "r) Accessory Buildings
- i) In accordance with the requirements of Section 9.4.3;
  - ii) In addition to i) above, no accessory building shall be permitted within a front yard or a flankage yard, except where the structure is for security purposes.
  - iii) Notwithstanding ii) above, a structure(s) for security purposes shall be permitted within a front yard or flankage yard on lots greater than 6.0 ha in size."
7. That Section 9.5.3 j), of By-law 05-200, be deleted in its entirety and replaced with the following:
- "j) Accessory Buildings
- i) In accordance with the requirements of Section 9.5.3;
  - ii) In addition to i) above, no accessory building shall be permitted within a front yard or a flankage yard, except where the structure is for security purposes."
8. That Section 9.6.3 q), of By-law 05-200, be deleted in its entirety and replaced with the following:
- "q) Accessory Buildings
- i) In accordance with the requirements of Section 9.6.3;
  - ii) In addition to i) above, no accessory building shall be permitted within a front yard or a flankage yard, except where the structure is for security purposes."
11. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.



**PASSED and ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

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R. Bratina  
Mayor

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R. Caterini  
Clerk

CI-12-E