SUBJECT: City Initiative CI-06-G – Housekeeping Amendments to Comprehensive Zoning By-law (PED06385) (City Wide)

RECOMMENDATION:

(a) That approval be given to City Initiative CI-06-G to provide housekeeping amendments to the City’s Comprehensive Zoning By-law, known as Zoning By-law 05-200, included as Appendix “A” to Report PED06385.

(b) That the attached Zoning By-law, marked Appendix “A” to Report PED06385, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(c) That the proposed zoning is in conformity with the Official Plans for the Region of Hamilton-Wentworth and City of Hamilton.

EXECUTIVE SUMMARY:

On May 25, 2005, City Council approved and enacted the first stage of a new comprehensive Zoning By-law for the City of Hamilton. As discussed by staff during this presentation, staff would continue to monitor the Zoning By-law and, if needed, would bring forward amendments where clarification is required to assist in the interpretation and ensure consistency of the document. The amendments being recommended provide for the clarification, correction and easier interpretation of the document.
BACKGROUND:

In May 2005, City Council enacted the first stage of the new comprehensive Zoning By-law for the City of Hamilton. During the presentation and approval, staff stated that the Zoning By-law is intended to be a “living document” which needs to be monitored. The intent is to ensure the Zoning By-law remains easy to use, but continue to remedy any interpretation issues that may arise.

While the amendments are not substantive and do not change the intent of the Zoning By-law, examples of the amendments relate to issues such as:

- clarification of wording by adding or replacing words.
- clarification of definitions, such as, adding that a fitness club is not a part of a “Private Club” but remains as a “Commercial Recreation” use.
- inclusion of regulations to further clarify intent, such as adding a regulation allowing for increased setback of parking garage entrances to ensure safety at access and egress points.
- correcting a mapping error, which redesignates lands at the intersection of Wilson and Hughson from “Downtown Local Commercial Zone” to “Downtown Mixed Use Zone” to reflect conformity to the Secondary Plan.

Staff has worked with the Building & Licensing Division of the Planning and Economic Development Department and Development Planning staff to capture any amendments that should be undertaken to provide easier use of the Zoning By-law.

ANALYSIS/RATIONALE:

The attached By-law is required to provide clarification and provide easier application of the By-law, without affecting the intent of, the Downtown Secondary Plan. There are no changes required to the Downtown Secondary Plan policies.

ALTERNATIVES FOR CONSIDERATION:

If this By-law should not be approved, there is potential for questions of interpretation to arise, therefore, potentially making it more difficult to implement the intent of the Secondary Plan.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council will hold at least one (1) Public Meeting to consider an amendment to the Zoning By-law.
POLICIES AFFECTING PROPOSAL:

The proposed Zoning By-law amendments are not affected by any policy, but provide greater clarity to the regulations so that the intent of the policies of the Downtown Secondary Plan is implemented.

RELEVANT CONSULTATION:

Consultation has been undertaken with Legal Services and internal Divisions (Building and Licensing Division and Development Planning Section of the Planning and Economic Development Department) to discuss the implementation, and any issues that have arose in the use of the Zoning By-law.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes □ No
Amendments provide for clarity to the Comprehensive Zoning By-law to better understand and interpret the document.

Environmental Well-Being is enhanced. □ Yes ☑ No

Economic Well-Being is enhanced. ☑ Yes □ No
With greater clarity to the regulations, economic decisions will not be made by an incorrect interpretation of the regulations.

Does the option you are recommending create value across all three bottom lines? □ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes □ No
These amendments provide for clarification and enables easier interpretation of the document.

:AF
Attach. (1)
CITY OF HAMILTON

BY-LAW No. ______

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 is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the Zoning By-law, being By-law 05-200, came into force on May 25, 2005;

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

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

1. The definition of “Conference of Convention Centre” in Section 3 of By-law 05-200 is amended by adding the words “social gatherings” between “workshops” and “and”.

2. The definition of “Commercial Entertainment” in Section 3 of By-law 05-200, is amended by adding the words “dance club” between the words “bingo halls” and “cultural events”.

3. The definition of “Medical Clinic” in Section 3 of By-law 05-200 is amended by deleting the word “ancillary” and replacing it with “accessory”.
4. The definition of “Place of Worship” in Section 3 of By-law 05-200 is amended by deleting the word “by” between “shall include” and “not be limited” and replacing it with “but”.

5. The definition of “Private Club or Lodge” in Section 3 of By-law 05-200 is amended by adding the phrase “but shall not include a fitness club” after “equal basis”.

6. The Definition of “Retirement Home” in Section 3 of By-law 05-200 is amended by deleting the second sentence and replacing it with the following new sentence:

“A retirement home may be licensed by the municipality and shall not be considered a long term care facility, emergency shelter, lodging house, residential care facility or any other facility which is licensed, approved or regulated under any general or special Act.”

7. Section 4.8 of By-law 05-200 is deleted and replaced with the following new Section:

“4.8 ACCESSORY BUILDINGS IN ALL ZONES

Unless otherwise provided for in this By-law, no accessory building shall be used for human habitation.

4.8.1 RESIDENTIAL ZONES
   DOWNTOWN D5 AND DOWNTOWN D6 ZONES

   a) No accessory building shall be located within a front yard.

   b) All buildings accessory to a residential use shall not exceed a gross floor area, including areas devoted exclusively to parking, of 97 square metres, or exceed 30% lot coverage of the yard in which the accessory buildings are located. This regulation shall not apply to an inground swimming pool.

   c) Accessory buildings having a maximum gross floor area of less than 10.0 square metres and a maximum building height of 3.0 metres may be located in a required rear yard or a required side yard.

   d) Buildings accessory to a residential use shall have a maximum building height of 5.0 metres. The maximum height of the underside of any fascia eaves, overhang or the
lower ends of the roof joists, rafters or trusses shall be 3.0 metres.

e) The following regulations shall apply to buildings accessory to a residential use which have a gross floor area between 10.0 square metres and 18 square metres:

i) Side Yard 0.6 metres

ii) Rear Yard 0.6 metres

iii) In no case shall an eave or gutter extend more than .3 metres into a required yard; and,

iv) Where such accessory building is designed and intended for parking of motor vehicles, such accessory building shall be set back a minimum of 6.0 metres from any street line.

f) Accessory buildings greater than 18 square metres in gross floor area shall conform to the regulations required for dwelling type to which the building is accessory to.

8. Subsections 4.9 a) and b) of By-law 05-200 are deleted and replaced with the following new Subsections:

“a) Within a required front yard, provided such equipment shall have a minimum setback of 3.0 metres from the street line, a minimum setback of 0.6 metres from a side lot line and is screened from the street by an enclosure or landscaping; and,

b) Within a required side yard or required rear yard provided such equipment has a minimum setback of 0.6 metres from the side lot line or rear lot line.”

9. Subsection 4.20(a) of By-law 05-200 is deleted and replaced with the following new Subsection:

“a) Seating Capacity Requirements:

No outdoor patio shall provide for:

i) More than 50% of the seating accommodation permitted under the Liquor Licence Act to the restaurant with which the outdoor commercial patio is associated; or
ii) Seating accommodation for more than 50 persons

whichever is the greater.

10. Subsection 5.1 b) i) of By-law 05-200 is amended by deleting the number “6.0” and replacing it with “5.8”.

11. Subsection 5.1 c) i) of By-law 05-200 is amended by deleting the number “6.0” and replacing it with “5.8”.

12. Subsection 5.2 a) of By-law 05-200 is amended by deleting the phrase “such abutting lot line” and replacing it with “that portion of the lot line that abuts a Residential Zone, Downtown D5 Zone or Downtown D6 Zone,”.

13. Section 5.5 of By-law 05-200, is amended by deleting the following phrase:

“within a Residential Zone, Downtown D5 Zone, Downtown D6 Zone, Commercial Zone, Institutional Zone or Industrial Zone.”

14. Subsection 5.6 a) iii of By-law 05-200 is amended by deleting the word “Uses” in the heading and replacing it with “Establishments”.

15. Subsection 5.6 b) of By-law 05-200 is amended by adding the following sentence after the word “maintained”:

“Where an addition, alteration or expansion of an existing building is proposed, the parking requirements of Section 5.6 a) above, shall only apply to the increased gross floor area of the building.”

16. Subsection 6.1.1 of By-law 05-200 is amended by deleting the words “Dwelling Unit” and replacing them with “Dwelling Unit(s)”.

17. Subsection 6.1.3 a) of By-law 05-200 is deleted and replaced with the following new Subsection:

“a) Maximum Building Setback

i) 2.0 metres for the first storey, except where a visibility triangle shall be provided for a driveway access;

ii) 0.5 metres for the second and third storeys;

iii) 6.0 metres for that portion of a building providing an access driveway
18. Subsection 6.1.3 b) i) of By-law 05-200 is deleted and replaced by the following new Subsection:

“i) Minimum 7.5 metres facade height, for any portion of a building along a street line.”

19. Subsection 6.1.3 d) of By-law 05-200 is amended by adding the phrase “of this By-law” after the words “Section 5”.

20. Subsection 6.1.3 of By-law 05-200 is amended by adding the following new Subsections:

“i) Home Business Regulations

In accordance with the requirements of Section 4.21 of this By-law.

j) Accessory Buildings

In accordance with the requirements of Section 4.8.1 of this By-law.”

21. Subsection 6.2.1 of By-law 05-200 is amended by deleting the words “Dwelling Unit” and replacing them with “Dwelling Unit(s)”.

22. Subsection 6.2.3 a) of By-law 05-200 is deleted and replaced with the following new Subsection:

“a) Maximum Building Setback

   i) 2.0 metres for the first storey, except where a visibility triangle is required to be provided for a driveway access;

   ii) 0.5 metres for the second and third storeys;

   iii) 6.0 metres for that portion of a building providing an access driveway to a garage.”

23. Subsection 6.2.3 b) i) of By-law 05-200 is deleted and replaced by the following new Subsection:

“i) Minimum 7.5 metres facade height, for any portion of a building along a street line.”
24. Subsection 6.2.3 c) iii) 4 of By-law 05-200 is amended by adding the phrase “except decorative architectural features/accessories” after the word “cladding”.

25. Subsection 6.2.3 d) of By-law 05-200 is amended by adding the phrase “of this By-law” after the words “Section 5”.

26. Subsection 6.2.3 e) i) of By-law 05-200 is amended by adding the words “Lodging House” between the words “Craftsperson Shop” and “Place of Assembly”.

27. Subsection 6.2.3 e) ii) of By-law 05-200 is amended by adding the phrase “access accessory office and utility areas” after the word “access” and by adding the words “Dwelling Unit(s)” above “Multiple Dwelling”.

28. Subsection 6.2.3 of By-law 05-200 is amended by adding the following new Subsections:

   “h) Home Business Regulations

   In accordance with the requirements of Section 4.21 of this By-law.

   i) Accessory Buildings

   In accordance with the requirements of Section 4.8.1 of this By-law.”

29. Subsection 6.3.1 of By-law 05-200 is amended by deleting the words “Dwelling Unit” and replacing them with “Dwelling Unit(s)”.

30. Subsection 6.3.3 a) of By-law 05-200 is deleted and replaced with the following new Subsection:

   “a) Maximum Building Setback

   i) 2.0 metres for the first storey, except where a visibility triangle is required to be provided for a driveway access;

   ii) 0.5 metres for the second and third storeys;

   iii) 6.0 metres for that portion of a building providing an access driveway to a garage.”

31. Subsection 6.3.3 b) i) of By-law 05-200 is deleted and replaced with the following new Subsection:
“i) Minimum 7.5 metres facade height, for any portion of a building along a street line.”

32. Subsection 6.3.3 c) iii) 4. of By-law 05-200 is amended by adding the phrase “except decorative architectural features/accessories” after the word “cladding”.

33. Subsection 6.3.3 e) of By-law 05-200 is amended by adding the phrase “of this By-law” after the words “Section 5”.

34. Subsection 6.3.3 g) ii) of By-law 05-200 is amended by adding the phrase “that portion of” between “parking facility” and “the ground floor”.

35. Subsection 6.3.3 i) of By-law 05-200 is amended by deleting the word “Capacity” after “Shelter” and by adding the phrase “Maximum Capacity for” before “Emergency”.

36. Subsection 6.3.3 j) of By-law 05-200 is amended by deleting the word “Capacity” after “Facility” and by adding the phrase “Maximum Capacity for” before “Residential”.

37. Subsection 6.3.3 of By-law 05-200 is amended by adding the following new Subsections:

“k) Home Business Regulations

In accordance with the requirements of Section 4.21 of this By-law.

i) Accessory Buildings

In accordance with the requirements of Section 4.8.1 of this By-law.”

38. Subsection 6.4.1 of By-law 05-200 is amended by deleting the words “Dwelling Unit” and replacing them with “Dwelling Unit(s)”.

39. Subsection 6.4.2 of By-law 05-200 is amended by adding the word “Subsection” between “Notwithstanding” and “6.4.1”.

40. Subsection 6.4.3 a) of By-law 05-200 is deleted and replaced with the following new Subsection:

“a) Maximum Building Setback i) 2.0 metres for the first storey, except where a visibility triangle is required to be provided for a driveway access;
Appendix “A” to Report PED06385

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ii) 0.5 metres for the second and third storeys;

iii) 6.0 metres for that portion of a building providing an access driveway to a garage.”

41. Subsection 6.4.3 b) i) of By-law 05-200 is deleted and replaced by the following new Subsection:

“i) Minimum 7.5 metres facade height, for any portion of a building along a street line.”

42. Subsection 6.4.3 e) of By-law 05-200 is amended by adding the phrase “of this By-law” after “Section 5”.

43. Subsection 6.4.3 h) of By-law 05-200 is amended by deleting the word “Capacity” after “Shelter” and by adding the phrase “Maximum Capacity for” before “Emergency”.

44. Subsection 6.4.3 i) of By-law 05-200 is amended by deleting the word “Capacity” after “Facility” and by adding the phrase “Maximum Capacity for” before “Residential”.

45. Subsection 6.4.3 of By-law 05-200 is amended by adding the following new Subsections:

“j) Home Business Regulations
   In accordance with the requirements of Section 4.21 of this By-law.

i) Accessory Buildings
   In accordance with the requirements of Section 4.8.1 of this By-law.”

46. Subsection 6.5.2.1 c) ii) of By-law 05-200 is amended by deleting the number “6.0” and replacing it with 5.8”.

47. Subsection 6.5.2.1 g) of By-law 05-200 is amended by adding the phrase “of this By-law” after the words “Section 5”.

48. Subsection 6.5.2.1 of By-law 05-200 is amended by adding the following new Subsections:

“j) Home Business Regulations
In accordance with the requirements of Section 4.21 of this By-law.

i) Accessory Buildings

In accordance with the requirements of Section 4.8.1 of this By-law.

49. Subsection 6.5.2.2 c) ii) of By-law 05-200 is amended by deleting the number “6.0” and replacing it with “5.8”.

50. Subsection 6.5.2.2 g) of By-law 05-200 is amended by adding the phrase “of this By-law” after the words “Section 5”.

51. Subsection 6.5.2.2 of By-law 05-200 is amended by adding the following new Subsections:

“j) Home Business Regulations

In accordance with the requirements of Section 4.21 of this By-law.

i) Accessory Buildings

In accordance with the requirements of Section 4.8.1 of this By-law.”

52. Subsection 6.5.2.3 c) ii) of By-law 05-200 is amended by deleting the number “6.0” and replacing it with “5.8”.

53. Subsection 6.5.2.3 g) of By-law 05-200 is amended by adding the phrase “of this By-law” after “Section 5”.

54. Subsection 6.5.2.3 of By-law 05-200 is amended by adding the following new Subsections:

“j) Home Business Regulations

In accordance with the requirements of Section 4.21 of this By-law.

i) Accessory Buildings

In accordance with the requirements of Section 4.8.1 of this By-law.”

55. Subsection 6.5.2.4 c) ii) of By-law 05-200 is amended by deleting the number “6.0” and replacing it with “5.8”. 
56. Subsection 6.5.2.4 g) of By-law 05-200 is amended by adding the phrase “of this By-law” after “Section 5”.

57. Subsection 6.5.2.4 i) of By-law 05-200 is amended by deleting the words “Distance Separation” and replacing them with “Location of Emergency Shelter, Long Term Care Facility and Residential Care Facility”.

58. Subsection 6.5.2.4 of By-law 05-200 is amended by adding the following new Subsection:

“k) Accessory Buildings

In accordance with the requirements of Section 4.8.1 of this By-law.”

59. Subsection 6.5.2.5 of By-law 05-200 is amended by adding the words “EDUCATIONAL ESTABLISHMENT” in the heading between “PLACE OF WORSHIP” and “REGULATIONS”.

60. Section 6.5.2.5 f) of By-law 05-200 is amended by deleting subsection iii).

61. Subsection 6.5.2.5 g) of By-law 05-200 is amended by adding the phrase “of this By-law” after “Section 5”.

62. Subsection 6.5.2 of By-law 05-200 is amended by adding the following new Subsections:

“6.5.2.6 Home Business Regulations

In accordance with the requirements of Section 4.21 of this By-law.

6.5.2.7 Accessory Building Regulations

In accordance with the requirements of Section 4.8.1 of this By-law.”

63. Subsection 6.6.1 of By-law 05-200 is amended by adding the words “Home Business” between “Emergency Shelter” and “Lodging House”.

64. Subsection 6.6.2.1 g) of By-law 05-200 is amended by adding the phrase “of this By-law” after “Section 5”.

65. Subsection 6.6.2.2 b) of By-law 05-200 is amended by deleting the phrase “Minimum Lot Width for Unit” and replacing it with “Minimum Unit Width”.
66. Subsection 6.6.2.2 g) of By-law 05-200 is amended by adding the phrase “of this By-law” after “Section 5”.

67. Subsection 6.6.2 of By-law 05-200 is amended by adding the following new Subsections:

“6.6.2.6 Home Business Regulations

In accordance with the requirements of Section 4.21 of this By-law.

“6.6.2.7 Accessory Building Regulations

In accordance with the requirements of Section 4.8.1 of this By-law.”

68. Maps 910, 911, 952 and 953 of Schedule “A” of By-law 05-200 are amended by changing the zoning for lands as marked on a plan, showing the location, extent and boundaries of the lands, attached to this By-law as Schedule “1” from “Downtown Local Commercial (D4) Zone” to “Downtown Mixed Use (D3) Zone”.

69. 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 ____________, 2006.

__________________________  _________________________
MAYOR                     CLERK

CI-06-G
This is Schedule "A" to By-Law No. 06-

Passed the .......... day of .................., 2006

Clerk

Mayor

Schedule "A"

Map Forming Part of By-Law No. 06-___
to Amend By-law No. 05-200

Subject Property
Change in Zoning from "D4" Zone to "D3" Zone.