

List of Corrections, Errors, and Omissions of the Zoning By-law as a result of Administrative Changes Identified by Staff or in Consultation with Landowners

General Text			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	Section 2 – Interpretation	Administrative change to add a regulation to recognize Residential Zones found in the former municipal Zoning By-laws in Hamilton, Ancaster, Dundas, Flamborough, Glanbrook, and Stoney Creek to be included in various interpretations of zone regulations in Hamilton Zoning By-law No. 05-200.	Add the following new regulation: “For the purposes of this by-law, residential zones shall include residential districts in Hamilton Zoning By-law No. 6593 and residential zones in Ancaster Zoning By-law No. 87-57, Town of Dundas Zoning By-law No. 3581-86, Town of Flamborough Zoning By-law No. 90-145-Z, Township of Glanbrook No. 464 and City of Stoney Creek Zoning By-law No. 3692-92”
2	Section 3 - Definitions	Request from a landowner to modify the definition of Drive-Through Facility to ensure motor vehicle service stations such as Jiffy lube, where the driver pulls in and has the oil changed and then drives out, are excluded from this definition. The landowner owns a property located at 615 Mohawk Road West.	Add the words “and Motor Vehicle Service Station” after the words “a Motor Vehicle Washing Establishment”. This change is to acknowledge where Motor Vehicle Service Stations such as quick oil change establishments will require motor vehicles to be parked in front of the service bays while waiting for service. This would not constitute as a Drive-Through Facility as the use is a Motor Vehicle Service Station type use, the engine is usually turned off while waiting, effectively the vehicle is “parked”, and there is no speaker box or menu panels. Finally, there is generally no stacking lanes that would encircle the building.
3	Section 3 - Definitions	Administrative change to modify the definition of Retail. Retail should include the following uses: Building or Contracting Supply Establishment, Building and Lumber Supply Establishment, Home Furnishing Retail Establishment, Home Improvement Supply Establishment.	Remove the word “not” after “including Building or Contractor Supply Establishment...” This administrative change is to capture and permit additional commercial uses within the scope of the definition of retail.

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4	Section 3 - Definitions	Administrative change to modify the definition of Commercial Entertainment. Performing Arts Theatre is separately defined.	<p>Remove the words “performing arts theatres” before the words “bingo hall, dance clubs...”</p> <p>This administrative change is to provide further clarity that a performing arts theatre is a separate use from cinema. A performing arts theatre is envisioned is permitted in certain CMU zones such as the Mixed Use High (C4) Zone, the Mixed Use Medium (C5) Zone, and the Mixed Use Medium – Pedestrian Focus (C5a) Zone. However, it is prohibited in the Arterial Commercial (C7) Zone. A cinema is included under Commercial Entertainment and also prohibited in the Arterial Commercial (C7) Zone.</p>
5	Section 4 – Vacuum Clause	Request from a landowner to include High Density Mixed Use (C4) Zone along with other zones that will have the flexibility for additions and alterations of up to 10% of the existing GFA and not be subject to setback requirement fronting onto a street line.	<p>Under Subsection 4.12f)ii) – Vacuum Clause has been revised to include the High Density Mixed Use (C4) Zone whereby an addition or alteration to an existing building to a maximum of 10% of the existing Gross Floor Area (GFA) is permitted.</p> <p>This will also allow commercial development on lands zoned C4 to permit additions and alterations to existing commercial buildings of up to 10% of the existing GFA and certain zone regulations such as setback requirements would be deemed to comply.</p>

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6	Section 4.25 – Drive- Through Regulations	Administrative change to add an additional regulation for Drive-Through Facilities. Require access drive or stacking lanes to be setback 12 m from a residential zone. This regulation is the same regulation as contained in Zoning By-law No. 6593. The regulation reduces any potential conflict between residential and commercial zones for drive-through traffic	<p>Added a new regulation as 4.25c) iv):</p> <p>“No stacking space, stacking lane, and any access driveway or manoeuvring space to access the Drive-Through Facility shall be within 12.0 metres from any Residential Zone.”</p> <p>This addition is to ensure impacts of the Drive-Through Facility are minimized from abutting residential uses by having a separation of uses. Furthermore, this regulation has been carried forward from Hamilton Zoning By-law No. 6593.</p>
7	Section 4.25 – Drive- Through Regulations	Administrative change to modify existing regulation d) to add words at the front of the clause “Where a building does not occupy the space between a Drive-Through Facility and a Residential Zone or Institutional Zone property line:	<p>With the addition of clause c)iv) above, clarification of clause d) is required respecting the location of the planning strip.</p> <p>This zone regulation is to provide additional visual barriers in the event there is no building in between the residential use and the Drive-Through Facility. The administrative change is to provide more clarity on when this regulation applies. The intent is to provide additional screening for privacy and reduction in noise and lighting impacts on abutting uses in a Residential or Institutional Zone.</p>
7	Section 5.6 – Parking	Administrative change to provide clarity to the wording found in the parking requirements of Commercial Motor Vehicle Sales, Rental and Service Establishment. The word “and” was missing.	<p>Add the word "and" between "use" and "2" in the parking requirements.</p> <p>The administrative change is to provide further clarity to the parking requirement. The word “and” was missing.</p>

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8	Section 5.6c – Parking Requirements Outside of Downtown: Shopping Centre within a Commercial and Mixed Use Zone	<p>Request from a landowner to further clarify the wording of the parking requirement. The calculation of parking requirement for Shopping Centre is the total gross floor area of the entire mall, not individual tenants.</p> <p>The intent of the change in wording is to provide further clarity that parking requirements are calculated as a total GFA of the entire shopping centre, and not calculated as individual tenants. In other words, if every tenant is less than 450 square metres, then the shopping centre would not be required to provide parking.</p>	<p>Made changes to the wording of the Shopping Centre parking requirements. The actual requirements do not change.</p> <p>i) 0 where a use is less than 450.0 square metres of total gross floor area;</p> <p>ii) 1 for each 17.0 square metres of total gross floor area between 450.0 square metres and 4,000.0 square metres; and,</p> <p>iii) 1 for each 50.0 square metres of total gross floor area greater than 4,000.0 square metres, unless otherwise listed.</p>
9	Section 5.6 – Parking	Added a new regulation requiring up to 10% of all required parking spaces to accommodate small cars. The reduced parking stall size is 2.6 metres by 5.5 metres.	<p>Add the following new regulation:</p> <p>“Notwithstanding Subsection i) herein, where 10 or more parking spaces are required on a lot, the minimum parking space size of not more than 10% of such parking spaces shall be a width of 2.6 metres and a length of 5.5 metres, provided that any such parking space is clearly identified as being reserved for the parking of small cars only.”</p>

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Section 10.2 – Neighbourhood Commercial (C2) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	10.2.3i)ii) and iii) - Built form for New Development	Administrative change to modify the regulation. Ground floor building façade cannot be provided where there is an access driveway because buildings cannot occupy the same physical space at grade required for driveway access, and buildings cannot be built within a required yard such as an interior side yard or rear yard, and therefore is excluded in the measurements.	<p>Added the words “and shall exclude access driveways and lands within a required yard.” at the end of the regulation.</p> <p>This administrative change is to omit certain elements of a commercial development from calculating minimum building façade requirements.</p>
2	10.2.3g)iv) - Built form for New Development	<p>Administrative change identified by staff to add a new regulation to address concerns from landowners with respect to the minimum building façade along a street line and maximum setbacks abutting a street. Due to contemporary commercial market trends, commercial developers and landowners build small building pads for commercial uses such as restaurants, banks, and small retail units are constructed along the lot line fronting the street instead of expanding the existing commercial plazas.</p> <p>Regulation will permit small building pads to be built in existing commercial developments, each of up to 650 square metres without the need to comply to the Minimum Building Façade Length.</p>	<p>Add a new regulation as follows:</p> <p>iv) Notwithstanding ii) and iii) above, for existing commercial development, new buildings up to 650 square metres, the above regulations shall not apply.</p> <p>This administrative change is a response to concerned landowners who may wish to add small commercial building pads closer to the street. This will over time allow landowners to build multiple building pads close to the street line, effectively meeting the Official Plan intent of creating a street edge that improves the pedestrian realm.</p>

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3.	10.2.1.1.2.B. – Restricted Uses	Administrative change identified by staff to add a new regulation where the regulation allowing a maximum 50% GFA of the building for residential uses does not apply for existing buildings, provided the ground floor contains a commercial use and the Minimum Building Height is 9.0 metres. This ensures that for buildings over two storeys, the percentage of the GFA that is residential can exceed 50%. However, the ground floor must have a commercial use to avoid the building being purely a residential building.	Add a new regulations as follows: B. Subsection A above shall not apply to buildings existing at the date of the passing of the By-law where: i) The ground floor contains a commercial use; and, ii) The Minimum Building Height is 9.0 metres.
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Section 10.3 – Community Commercial (C3) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	10.3.1 – Permitted Uses	Administrative change to include Communications Establishments as a permitted use. The use includes radio stations, print media, various forms of electronic media, and printing of information. This use is appropriate as a local commercial use to support small communications establishments.	Added “Communications Establishments” as a permitted use. Radio stations, small printing establishments, newspaper and other print media offices would be permitted in this zone, and is appropriate on the basis that establishments can locate in their local catchment area.
2	10.3.2 – Prohibited Uses	Administrative change to remove the prohibited use as it is permitted in the UHOP under Volume 1, Policy E.3.8.3. Additional regulations are proposed under General Provisions - Section 4.25.	Remove “Drive-Through Facility” as a prohibited use. This administrative change provides opportunities for certain local commercial development to permit Drive-Through Facilities. Generally, lands within the C3 Zone are larger and have more opportunities to locate Drive-Through Facilities and still reduce the impacts from abutting residential uses through a Site Plan Control process.

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3	10.3.3i)ii) and iii) - Built form for New Development	Administrative change to modify the regulation. Ground floor building façade cannot be provided where there is an access driveway because buildings cannot occupy the same physical space at grade required for driveway access, and buildings cannot be built within a required yard such as an interior side yard or rear yard, and therefore is excluded in the measurements.	<p>Added the words “and shall exclude access driveways and lands within a required yard.” at the end of the regulation.</p> <p>This administrative change is to omit certain elements of a commercial development from calculating minimum building façade requirements.</p>
4	10.3.3g)iv) - Built form for New Development	<p>Administrative change by staff to add a new regulation to address concerns from landowners with respect to the minimum building façade along a street line and maximum setbacks abutting a street. Due to contemporary commercial market trends, commercial developers and landowners build small building pads for commercial uses such as restaurants, banks, and small retail units are constructed along the lot line fronting the street instead of expanding the existing commercial plazas.</p> <p>Regulation will permit small building pads to be built in existing commercial developments, each of up to 650 square metres without the need to comply to the Minimum Building Façade Length.</p>	<p>Add a new regulation as follows:</p> <p>iv) Notwithstanding ii) and iii) above, for existing commercial development, new buildings up to 650 square metres, the above regulations shall not apply.</p> <p>This administrative change is a response to concerned landowners who may wish to add small commercial building pads closer to the street. This will over time allow landowners to build multiple building pads close to the street line, effectively meeting the Official Plan intent of creating a street edge that improves the pedestrian realm.</p>

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Section 10.4 – Mixed Use High Density (C4) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	10.4.1 – Permitted Uses	Administrative change to add “Performing Arts Theatre” as a permitted use. A separate use from Commercial Entertainment will permit live shows, dance performances, and acting.	<p>Add “Performing Arts Theatre” as a permitted use.</p> <p>This administrative change is to provide further clarity that a performing arts theatre is a separate use from cinema. A performing arts theatre is envisioned is permitted in certain CMU zones such as the Mixed Use High (C4) Zone, the Mixed Use Medium (C5) Zone, and the Mixed Use Medium – Pedestrian Focus (C5a) Zone. However, it is prohibited in the Arterial Commercial (C7) Zone. A cinema is included under Commercial Entertainment and also prohibited in the Arterial Commercial (C7) Zone.</p>
2	10.4.1 – Permitted Uses	Administrative change to remove “Educational Establishment” as a permitted use. This is more appropriate in an Institutional Zone and not in a Mixed Use High Density Zone.	Remove “Educational Establishment” as a permitted use.
3	10.4.3f) – Maximum GFA of Microbrewery	Administrative change to add the word “Microbrewery” in the title. The word was a general omission in the draft version. The regulation remains intact.	Add the word “Microbrewery” in the title.

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4	10.4.3d) – Maximum Building Height	In recent years this has been a trend to provide additional amenity space for residents, and also assists in climate change and the heat island effect through the use of green roofs and rooftop gardens. An additional regulation has been added as a subsection to Building Height to permit additional vertical distance in addition to the building height as a result of the stairwell that provides access to the rooftop amenity area, and any portions of the amenity area such as a gazebo that adds additional vertical distance to the building. Of up to 10% of the area of the floor area of the rooftop directly beneath the roof.	<p>Add the following regulation:</p> <ul style="list-style-type: none"> i) In addition to the definition of Building Height in Section 3: Definitions, any wholly enclosed or partially enclosed amenity area, or any portion of a building designed to provide access to a rooftop amenity area shall be permitted to project above the uppermost point of the building, subject to the following regulations: <ul style="list-style-type: none"> A. The total floor area of the wholly enclosed or partially enclosed amenity area, or portion of a building designed to provide access to a rooftop amenity area does not exceed 10% of the floor area of the storey directly beneath; B. The wholly enclosed or partially enclosed amenity area, or portion of a building designed to provide access to a rooftop amenity area shall be setback a minimum of 3.0 metres from the exterior walls of the storey directly beneath; and, C. The wholly enclosed or partially enclosed amenity area, or portion of a building designed to provide access to a rooftop amenity area shall not be greater than 3.0 metres in vertical distance from the uppermost point of the building to the uppermost point of the rooftop enclosure.
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5	10.4.3h) – Minimum Amenity Area for Dwelling Units and Multiple Dwellings	<p>Request from a landowner to revise the minimum requirement for amenity space. The requirement as presented in the June 6, 2017 Planning Committee may be difficult to meet, and request that staff revisit the requirement and refine the regulations based on unit size, unit number, and other standards.</p> <p>Concerns were raised respecting the lack of flexibility in the regulation and penalize buildings with smaller units and those with few numbers of units.</p> <p>Staff corresponded with the delegate who made a presentation at the June 6, 2017 Planning Committee, and also attended a site visit on July 13, 2017. After further discussions and additional research on the topic, the proposed regulation have been refined and applies for lots whose development contains more than 10 dwelling units, and a sliding scale of different minimum requirements based on unit size.</p> <p>Furthermore, Amenity Areas should not include lands that are obstructed and not usable, and lands that are required Planting Strips and/or Landscaped Areas as required. This is to prevent areas that could be misinterpreted as amenity space such as crawlspaces and ventilation exhaust grills.</p>	<p>The regulation has been revised to the following:</p> <p>On a lot containing more than 10 dwelling units, the following Minimum Amenity Area requirements be provided:</p> <ul style="list-style-type: none"> i) An area of 4.0 square metres for each dwelling unit less than 50 square metres; and, ii) An area of 6.0 square metres for each dwelling unit more than 50 square metres. iii) In addition to the definition of Amenity Area in Section 3: Definitions, an Amenity Area located outdoors shall be unobstructed and shall be at or above the surface, and exposed to light and air.
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Section 10.5 – Mixed Use Medium Density (C5) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	10.5.1 – Permitted Uses	Administrative change to add “Performing Arts Theatre” as a permitted use. A separate use from Commercial Entertainment will permit live shows, dance performances, and acting.	<p>Add “Performing Arts Theatre” as a permitted use.</p> <p>This administrative change is to provide further clarity that a performing arts theatre is a separate use from cinema. A performing arts theatre is envisioned is permitted in certain CMU zones such as the Mixed Use High (C4) Zone, the Mixed Use Medium (C5) Zone, and the Mixed Use Medium – Pedestrian Focus (C5a) Zone. However, it is prohibited in the Arterial Commercial (C7) Zone. A cinema is included under Commercial Entertainment and also prohibited in the Arterial Commercial (C7) Zone.</p>
2	10.5.3g)ii) and iii) - Built form for New Development	Administrative change to modify the regulation. Ground floor building façade cannot be provided where there is an access driveway because buildings cannot occupy the same physical space at grade required for driveway access, and buildings cannot be built within a required yard such as an interior side yard or rear yard, and therefore is excluded in the measurements.	<p>Added the words “and shall exclude access driveways and lands within a required yard.” at the end of the regulation.</p> <p>This administrative change is to omit certain elements of a commercial development from calculating minimum building façade requirements.</p>

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3	10.5.3g)iv) - Built form for New Development	<p>Administrative change to add a new regulation to address concerns from landowners with respect to the minimum building façade along a street line and maximum setbacks abutting a street. Due to contemporary commercial market trends, commercial developers and landowners build small building pads for commercial uses such as restaurants, banks, and small retail units are constructed along the lot line fronting the street instead of expanding the existing commercial plazas.</p> <p>Regulation will permit small building pads to be built in existing commercial developments, each of up to 650 square metres without the need to comply to the Minimum Building Façade Length.</p>	<p>Add a new regulation as follows:</p> <p>iv) Notwithstanding ii) and iii) above, for existing commercial development, new buildings up to 650 square metres, the above regulations shall not apply.</p> <p>This administrative change is a response to concerned landowners who may wish to add small commercial building pads closer to the street. This will over time allow landowners to build multiple building pads close to the street line, effectively meeting the Official Plan intent of creating a street edge that improves the pedestrian realm.</p>
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Section 10.5 – Mixed Use Medium Density (C5) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
4	10.5.3h) – Minimum Amenity Area for Dwelling Units and Multiple Dwellings	<p>Request from a landowner to revise the minimum requirement for amenity space. The requirement as presented in the June 6, 2017 Planning Committee was onerous and difficult to meet.</p> <p>Concerns were raised respecting the lack of flexibility in the regulation and penalize buildings with smaller units and those with few numbers of units. After further research, the proposed regulation applies for lots containing more than 10 dwelling units, and a sliding scale of different minimum requirements based on unit size.</p> <p>Furthermore, Amenity Areas should not include lands that are obstructed and not usable, and lands that are required Planting Strips and/or Landscaped Areas as required. This is to prevent areas that could be misinterpreted as amenity space such as crawlspaces and ventilation exhaust grills.</p>	<p>The regulation has been revised to the following:</p> <p>On a lot containing more than 10 dwelling units, the following Minimum Amenity Area requirements be provided:</p> <ul style="list-style-type: none"> i) An area of 4.0 square metres for each dwelling unit less than 50 square metres; and, ii) An area of 6.0 square metres for each dwelling unit more than 50 square metres. iii) In addition to the definition of Amenity Area in Section 3: Definitions, an Amenity Area located outdoors shall be unobstructed and shall be at or above the surface, and exposed to light and air.

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5	10.4.3h) – Maximum Building Height	In recent years this has been a trend to provide additional amenity space for residents, and also assists in climate change and the heat island effect through the use of green roofs and rooftop gardens. An additional regulation has been added as a subsection to Building Height to permit additional vertical distance in addition to the building height as a result of the stairwell that provides access to the rooftop amenity area, and any portions of the amenity area such as a gazebo that adds additional vertical distance to the building. Of up to 10% of the area of the floor area of the rooftop directly beneath the roof.	<p>Add the following regulation:</p> <ul style="list-style-type: none"> i) In addition to the definition of Building Height in Section 3: Definitions, any wholly enclosed or partially enclosed amenity area, or any portion of a building designed to provide access to a rooftop amenity area shall be permitted to project above the uppermost point of the building, subject to the following regulations: <ul style="list-style-type: none"> A. The total floor area of the wholly enclosed or partially enclosed amenity area, or portion of a building designed to provide access to a rooftop amenity area does not exceed 10% of the floor area of the storey directly beneath; B. The wholly enclosed or partially enclosed amenity area, or portion of a building designed to provide access to a rooftop amenity area shall be setback a minimum of 3.0 metres from the exterior walls of the storey directly beneath; and, C. The wholly enclosed or partially enclosed amenity area, or portion of a building designed to provide access to a rooftop amenity area shall not be greater than 3.0 metres in vertical distance from the uppermost point of the building to the uppermost point of the rooftop enclosure.
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Section 10.5a – Mixed Use Medium Density – Pedestrian Focus (C5a) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	10.5a.1 – Permitted Uses	Administrative change to add “Performing Arts Theatre” as a permitted use. A separate use from Commercial Entertainment will permit live shows, dance performances, and acting.	<p>Add “Performing Arts Theatre” as a permitted use.</p> <p>This administrative change is to provide further clarity that a performing arts theatre is a separate use from cinema. A performing arts theatre is envisioned is permitted in certain CMU zones such as the Mixed Use High (C4) Zone, the Mixed Use Medium (C5) Zone, and the Mixed Use Medium – Pedestrian Focus (C5a) Zone. However, it is prohibited in the Arterial Commercial (C7) Zone. A cinema is included under Commercial Entertainment and also prohibited in the Arterial Commercial (C7) Zone.</p>

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Section 10.6 – District Commercial (C6) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	10.6.3g)ii) and iii) - Built form for New Development	Administrative change to modify the regulation. Ground floor building façade cannot be provided where there is an access driveway because buildings cannot occupy the same physical space at grade required for driveway access, and buildings cannot be built within a required yard such as an interior side yard or rear yard, and therefore is excluded in the measurements.	<p>Added the words “and shall exclude access driveways and lands within a required yard.” at the end of the regulation.</p> <p>This administrative change is to omit certain elements of a commercial development from calculating minimum building façade requirements.</p>
2	10.6.3g)iv) - Built form for New Development	<p>Administrative change to add a new regulation to address concerns from landowners with respect to the minimum building façade along a street line and maximum setbacks abutting a street. Due to contemporary commercial market trends, commercial developers and landowners build small building pads for commercial uses such as restaurants, banks, and small retail units are constructed along the lot line fronting the street instead of expanding the existing commercial plazas.</p> <p>Regulation will permit small building pads to be built in existing commercial developments, each of up to 650 square metres without the need to comply to the Minimum Building Façade Length.</p>	<p>Add a new regulation as follows:</p> <p>iv) Notwithstanding ii) and iii) above, for existing commercial development, new buildings up to 650 square metres, the above regulations shall not apply.</p> <p>This administrative change is a response to concerned landowners who may wish to add small commercial building pads closer to the street. This will over time allow landowners to build multiple building pads close to the street line, effectively meeting the Official Plan intent of creating a street edge that improves the pedestrian realm.</p>

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Section 10.7 – Arterial Commercial (C7) Zone			
No.	Sections of the Zoning By-law	Nature of Correction, Error, or Omission	Actual Changes to the Zoning By-law
1	10.7.1 – Permitted Uses	<p>Request from a landowner to clarify the suitability of permitting Adult Entertainment Parlour and Body Rub Parlour as a permitted use in the Arterial Commercial (C7) Zone. However upon review, both uses are permitted only in specific parts of the city such as on lands located at Rymal Road East and Dartnall Road, as restricted by the Licensing By-law (By-law No. 07-170).</p> <p>Based on the foregoing, revisions have been made to remove these two uses as a permitted use, and only permit the two uses in specific locations through a Special Exception.</p>	<p>Removed “Adult Entertainment Parlour” and “Body Rub Parlour” from the list of permitted uses.</p> <p>Special Exception 605 permits Adult Entertainment Parlour and Body Rub Parlour only on properties identified in the Licensing By-law (By-law No. 07-170).</p>
2	10.7.2 – Prohibited Use	<p>Administrative change to identify a cinema as a prohibited use which conforms to the Urban Hamilton Official Plan as the policies prohibit this use in the Arterial Commercial designation. A cinema is more appropriate in other Commercial and Mixed Use Zone such as Mixed Use Medium Density and District Commercial Zones.</p>	<p>Add “Cinema” as a prohibited commercial use.</p>