

SCHEDULE "D"**HOLDING PROVISIONS FOR SPECIFIC LANDS**

1. Notwithstanding Section 12.4 of this By-law, on those lands zoned Settlement Commercial (S2) Zone, identified on Maps 113 and 114 of Schedule "A" – Zoning Maps and described as 2038 Governors Road, no development shall be permitted until such time as:
 - (i) The owner/applicant has receiving approval of a Site Plan Control Application, to the satisfaction of the Director of Planning, Planning and Economic Development Department.
(By-law No. 15-173, July 10, 2015)
2. Notwithstanding Section 12.2 of this By-law, on those lands zoned Existing Rural Industrial (E2) Zone, identified on Map 166 of Schedule "A" – Zoning Maps and described as 19 Highland Road East and part of 154 and part of 146 Upper Centennial Parkway, no development shall be permitted until such time as:
 - (i) The owner/applicant has receiving approval of a Site Plan Control Application, to the satisfaction of the Director of Planning, Planning and Economic Development Department; and,
 - (ii) A signed Record of Site Condition (RSC) has been submitted to the Director of Planning, Planning and Economic Development Department and the Ministry of the Environment (MOE). This RSC, must be to the satisfaction of the City of Hamilton, including acknowledgement of receipt of the RSC by the MOE.
(By-law No. 15-173, July 10, 2015)
3. Notwithstanding Section 12.1 of this By-law, on those lands zoned Agriculture (A1) Zone, identified on Map 85 of Schedule "A" – Zoning Maps and described as part of 497 Millgrove Side Road, no development shall be permitted until such time as:
 - (i) An Archaeological Assessment for the subject property is completed and approved by the Director of Planning and the Minister of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
(By-law No. 15-173, July 10, 2015)

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4. Notwithstanding Section 12.1 of this By-law, on those lands zoned Agriculture (A1) Zone, identified on Map 85 of Schedule "A" – Zoning Maps and described as part of 533 Millgrove Side Road, the combined capacity of restaurant and Place of Assembly shall be limited to 150 seats, until such time as:
 - i) The owner submits an additional Hydrogeological Investigation, demonstrating that the Restaurant and Place of Assembly uses can be adequately serviced by private water and sanitary services accommodating capacities of 112 seats and 250 seats, respectively, to the satisfaction of the Manager of Development Planning, Heritage and Design, and the Manager of Infrastructure and Source Water Planning, in consultation with the Ministry of the Environment. Once the Holding provision has been removed, a 112-seat Restaurant and a 250-seat Place of Assembly shall be permitted.
(By-law No. 15-173, July 10, 2015)
5. Notwithstanding Section 12.2 of this By-law, on those lands zoned Rural (A2) Zone, identified on Map 204 of Schedule "A" – Zoning Maps and described as 3075 Tisdale Road, no development shall be permitted until such time as:
 - i) Proof that an adequate private sanitary sewage system can be designed for the site, to the satisfaction of the Manager, Infrastructure and Source Water Planning; and,
 - ii) That a Stage 3 archaeological assessment of Tisdale site (AgGw-518) be completed, to the satisfaction of the Director of Planning and the Ministry of Tourism, Culture and Sport.
(By-law No. 15-173, July 10, 2015)
6. Notwithstanding Section 12.3 of this By-law, on those lands zoned Settlement Residential (S1) Zone, identified on Map 42 of Schedule "A" – Zoning Maps and described as part of 1605 Kirkwall Road, no development shall be permitted until such time as:
 - i) The owner enter into a Consent Agreement with the City of Hamilton, which will include required private servicing and monitoring conditions to the satisfaction of the Manager of Source Protection Planning, Public Works Department and Senior Director of Growth Management.
(By-law No. 15-173, July 10, 2015)

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7. Notwithstanding Section 12.3 of this By-law, on those lands zoned Settlement Residential (S1) Zone, identified on Map 94 of Schedule "A" – Zoning Maps and described as part of 403 Old Brock Road, no development shall be permitted until such time as:

- i) The Holding provision shall preclude development of the thirteenth lot until such time that a sufficient monitoring assessment of 10 of the 13 approved lots has been completed, and that it has been demonstrated that the remaining lots can be sustained without unacceptable degradation of the ground and surface waters, to the satisfaction of the Director of Planning and Ministry of Health.

(By-law No. 15-173, July 10, 2015)

8. Notwithstanding Section 7.4 and Special Exception No. 245 and No. 246 of this By-law, on those lands zoned Open Space (P4) Zone, identified on Map 16 of Schedule "A" – Zoning Maps and described as part of 58 12th Concession Road East, the development of up to 100 seasonal trailer sites and the private sewage treatment plant with dispersal fields, shall not be permitted until such times as:

- i) **Site Plan Agreement**
The Owner has entered into a Site Plan Agreement with the City and registered said Agreement on title. The Site Plan Agreement will address but shall not be limited to: required improvements and upgrades to the servicing, infrastructure, and layout of the seasonal trailer park, through which the required financial securities for the construction of works identified through the Site Plan Approval process will be specified by the City and posted by the Owner prior to Site Plan Approval; and,
- ii) **Municipal Responsibility Agreement**
The Owner has executed and registered on title the signed Municipal Responsibility Agreement and associate Trust Agreement to the satisfaction of the Senior Director of Growth Management and the Director of Hamilton Water, Public Works, and the Director of Planning. Prior to registration of said Agreements, the Owner shall post the financial securities required thereunder to the satisfaction of Senior Director of Growth Management and the Director of Hamilton Water, Public Works, and the Director of Planning.

(By-law No. 15-173, July 10, 2015)

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9. Notwithstanding Section 12.2 and Special Exception No. 248 of this By-law, on those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" – Zoning Maps and described as part of 57 12th Concession Road East, the development of up to 50 permanent mobile home sites (units) as well as the following uses:

Clubhouse, accessory to the Manufactured and Mobile Home Park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room;

One Manager's suite and two staff apartments, adjacent to the existing clubhouse;

Maintenance, utility and storage buildings; and,

Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas.

The Holding provision shall remain in effect until such time as the completion of the following conditions:

- (i) Site Plan Agreement

The Owner shall enter into a Site Plan Agreement with the City and register it on title, for Block "1"- North Lands to address required improvements and upgrades to the servicing, infrastructure, and layout of the mobile home park in a multi-phase plan to be developed through the Site Plan approval process, through which the required financial securities for the construction of works identified through Site Plan approval process will be specified by the City and posted by the Owner prior to Site Plan approval of each phase;

- (ii) Municipal Responsibility Agreement

The Owner shall register the signed Municipal Responsibility Agreement and associate Trust Agreement on title. Prior to registration, the Owner shall post the financial securities required thereunder to the satisfaction of Senior Director of Growth Management, the Director of Hamilton Water, Public Works, and the Director of Planning; and,

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- (iii) Conservation Halton
 - (a) A Flood Emergency Plan to the satisfaction of Conservation Halton is required to ensure a safe evacuation of residents during a flood emergency; and,
 - (b) The completion of fill placement/grading and pedestrian bridge upgrades as recommended in the March 6, 2008, Stantec letter report, is required to ensure safe ingress/egress during Regulatory Storm Events to the satisfaction of Conservation Halton.

NOTES FOR HOLDING REMOVAL:

In order to allow for the development of the first 50 permanent mobile home sites and services, it will be necessary to first remove the Holding Provision "H8" from the lands to the south. This will accommodate the relocation of the seasonal camping sites from the subject lands to lands to the south.

(By-law No. 15-173, July 10, 2015, as amended by OMB Decision PL150805 dated May 3, 2016)

10. Notwithstanding Section 12.2 and Special Exception No. 248 of this By-law, on those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" – Zoning Maps and described as part of 57 12th Concession Road East, the development of an additional 100 permanent mobile home sites, for a total of 150 permanent mobile home sites, shall not be permitted until such times as:
 - (i) Functional Servicing Report

An addendum to the Functional Servicing Report and Operations and Maintenance Manual is required which demonstrates the following to the satisfaction of the Senior Director of Growth Management and the Director of Hamilton Water, Public Works:

 - a) Undertake a Hydrogeological Study for at least one (1) year, with the assistance of a Qualified Person, to characterize the following:
 - i) The direction of groundwater flow;
 - ii) The existence of both an upstream and downstream monitoring well whose location reflects the groundwater flow regime;

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- iii) Confirm that the downstream well is located within the effluent plume and at least 40 metres from the septic system and tile field;
 - iv) Confirm that the monitoring well number and the monitoring well information provided to date was sampled from the upstream and downstream monitoring wells identified in (ii) and (iii), above;
 - v) Determine appropriate effluent trigger limits at the monitoring wells;
 - vi) If recommended by the Hydrogeologist, install additional monitoring wells in order to address items (i) to (v);
- b) Following the collection of at least three consecutive years of monitoring data, the Owner shall reassess the Hydrogeological Study to confirm effluent trigger limits and provide recommendations on any required infrastructure upgrades, referencing the monitoring data in conjunction with the water and waste water flow rate and occupancy records;
 - c) Submission of theoretical design flows for both the water and wastewater systems, based on full occupancy of the Fern Brook Development (150 permanent and 100 season sites), following MOE Design Guidelines (2008), City of Hamilton Engineering Guidelines (2006), and the Ontario Building Code;
 - d) Submission of historical water and wastewater flow rates which are based on Ministry of Environment Design Criteria and accompanied by occupancy records for the related time period;
 - e) Demonstration that the rated capacity of the Water Treatment System is capable of servicing the full Fern Brook Development (150 permanent and 100 seasonal sites), with the rated capacity being based on the largest unit for each process component out of service, and that the system is adequately designed to meet the

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MOE/Hamilton Fire Department fire storage and fire flow requirements;

- f) Demonstration that the Sewage Treatment System will:
 - i) function adequately for the design flows of the full Fern Brook Development (150 permanent sites and 100 seasonal sites), identifying the need for additional equipment in order to meet the rated firm capacity with the largest unit out of service;
 - ii) operate in accordance with the associated Certificate of Approval;
 - iii) produce an effluent, at the discharge point of the treatment system, with a nitrate concentration less than, or equal to 10mg/L; and,
 - iv) maintain a nitrate concentration, at the property boundary downstream of the sewage treatment system, that does not exceed 2.5 mg/L.; and,
- g) Revisions to the Operations and Maintenance Manuals for the water and wastewater treatment facilities which follow MOE's prescribed format and which include a comprehensive set of operating instructions and a process narrative to explain how the facility is intended to operate in accordance with the required treatment system as determined through the ongoing engineering analysis and in consultation with the City.

(By-law No. 15-173, July 10, 2015)

- 11. Notwithstanding Section 12.1 and Special Exception 94 of this By-law, on those lands zoned Agriculture (A1) Zone, identified on Map 824 of Schedule "A" – Zoning Maps and described as 161 Concession 4 West, no development shall be permitted until such time as:
 - i) A Site Plan Agreement has been entered into between the owners of the property and the Approval Authority.

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- ii) The Owner has entered into a Financial Assurance agreement with the Ministry of the Environment for the installation and operation of a communal sewage disposal system on the property.
- iii) The owner has installed to the satisfaction of the Ministry of Environment a communal sewage disposal system that will provide suitable sewage disposal for the portion of the property zoned as Agriculture (A1,94) Zone, Modified.

(By-law No. 15-173, July 10, 2015)

12. Notwithstanding Section 12.4.1 and Special Exception 255 of this By-law, on those lands zoned Settlement Commercial (S2) Zone, identified on Map 65 of Schedule "A" – Zoning Maps and described as 1292 Old Highway 8, no development shall be permitted until such time as:

- i) A private servicing strategy, including design details and monitoring, has been approved by the Sourcewater Protection Section, to the satisfaction of the Director of Water and Wastewater Planning and Capital.

(By-law No. 15-173, July 10, 2015)

13. Notwithstanding Section 12.2 of this By-law, on those lands zoned Rural (A2, 284) Zone, Modified and Rural (A2, 253, 284) Zone, Modified, identified on Map 73 of Schedule "A" – Zoning Maps and described as 11 Parkside Drive, the development of a Place of Worship shall not be permitted until such time as:

- (i) The owner/applicant submits a Hydrogeological Assessment of the subject lands based on the proposed development in order to assess the capacity of the subject lands for sustainable private servicing to the satisfaction of the Manager of Source Protection Planning, Public Works Department; and,
- (ii) The owner/applicant submits a Traffic Impact Assessment in order to assess the existing and planned traffic infrastructure including the impact of the proposed development on existing and planned traffic infrastructure to determine if any traffic infrastructure improvements would be required to support the proposed development to the satisfaction of the Manager of Geomatics and Corridor Management, Public Works Department (in consultation with the Ministry of Transportation).

(By-law No. 15-237, October 14, 2015)

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14. Notwithstanding Section 12.5 of this By-law, on those lands zoned Settlement Institutional (S3) Zone, identified on Maps 80 and 91 of Schedule "A" – Zoning Maps and described as part of 680 Highway 8, the development of an Educational Establishment shall not be permitted until such time as:

The owner/applicant submits a Hydrogeological Assessment of the subject lands based on the proposed development in order to assess the capacity of the subject lands for sustainable private servicing to the satisfaction of the Manager of Source Protection Planning, Public Works Department.

(By-law No. 15-237, October 14, 2015)

15. Notwithstanding Section 12.7 of this By-law, on those lands zoned Existing Rural Industrial (E2, 166) Zone, Modified, identified on Map 167 of Schedule "A" – Zoning Maps and described as 432 Highland Road East, the expansion of the Agriculture Processing Establishment – Stand Alone shall not be permitted until such time as:

- a) The owner/applicant submits a Hydrogeological Assessment of the subject lands based on the proposed development in order to assess the capacity of the subject lands for sustainable private servicing to the satisfaction of the Manager of Source Protection Planning, Public Works Department.

(By-law No. 15-268, December 9, 2015)

17. Notwithstanding Figure 1 – Special Figures of By-law 05-200, on those lands zoned Downtown (D1), (D2), and (D5) Zone, identified on Maps 868, 869, 909, 910, 911, 951, 952, 953, 954, 994, 995 of Schedule "A" – Zoning Maps development shall be restricted in accordance with the following:

- a) For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the (D1), (D2), or (D5) Zone.

- b) Regulations

For such time as the Holding Provision is in place, these lands shall be subject to the regulations of the (D1), (D2), or (D5) Zones except where in conflict with the following:

- i) No development exceeding the maximum height of 44.0 metres.

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c) Conditions for Holding Provision Removal

The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following conditions have been satisfied:

- i) That the landowner demonstrate to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton, that sufficient land assembly has occurred to achieve the minimum lot area requirement and lot frontage requirement in accordance with Section 6.0 of this By-law.
- ii) That the landowner demonstrate that the proposal conforms to the policies of the Downtown Hamilton Secondary Plan by submitting the following studies to the satisfaction of the Director of Planning, and Chief Planner, City of Hamilton:
 - 1. Shadow Impact Study;
 - 2. Pedestrian Level Wind Study;
 - 3. Visual Impact Assessment;
 - 4. Traffic Impact Study; and,
 - 5. Functional Servicing Report.
- iii) That the landowner demonstrate that the proposed development does not exceed the height of the Niagara Escarpment to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- iv) That conditional site plan approval be received, which shall address matters including but not limited to Design Review Panel advice, to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

(By-law No. 18-114, May 9, 2018)

19. Notwithstanding Figure 1 – Special Figures of By-law 05-200, on those lands zoned Downtown (D1), (D2), and (D5) Zone, identified on Maps 868, 869, 909,

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910, 911, 951, 952, 953, 954, 994, 995 of Schedule "A" – Zoning Maps development shall be restricted in accordance with the following:

- a) For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the (D1), (D2), or (D5) Zone.

- b) Regulations

For such time as the Holding Provision is in place, these lands shall be subject to the regulations of the (D1), (D2), or (D5) Zones except where in conflict with the following:

- i) No development exceeding 44.0 metres in height.

- c) Conditions for Holding Provision Removal

The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following conditions have been satisfied:

- i) That the landowner shall be required to enter into a Section 37 Agreement to secure provision of Community Benefits to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

(By-law No. 18-114, May 9, 2018)

- 20. Notwithstanding Figure 1 – Special Figures of By-law 05-200 on those lands zoned Downtown (D1), (D2), and (D5) Zone, identified on Maps 868, 869, 909, 910, 911, 951, 952, 953, 954, 994, 995 of Schedule "A" – Zoning Maps development shall be restricted by the following:

- a) For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the (D1), (D2), or (D5) Zone.

- b) Regulations

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For such time as the Holding Provision is in place, these lands shall be subject to the regulations of the (D1), (D2), or (D5) Zones except where in conflict with the following:

- i) No development exceeding 22.0 metres in height.
- c) Conditions for Holding Provision Removal

The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following conditions have been satisfied:

- i) That the landowner demonstrate that how any development having the effect of removing all or part of rental housing comprised of three or more units will be replaced to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- ii) That the landowner enter into an Agreement with the City of Hamilton.
(By-law No. 18-114, May 9, 2018)

21. Notwithstanding Figure 1 – Special Figures of By-law 05-200, on those lands zoned Downtown (D1), (D2), and (D5) Zone, identified on Maps 868, 869, 909, 910, 911, 951, 952, 953, 954, 994, 995 of Schedule "A" – Zoning Maps, no development shall be restricted by the following:

- a) For such time as the Holding Provision is in place, these lands shall only be used for permitted uses listed in the (D1), (D2), and (D5) Zone, within the existing buildings and structures.

- b) Regulations

For such time as the Holding Provision is in place, development of accessory structures shall be permitted in accordance with the regulations of the applicable (D1), (D2), or (D5) Zone.

- c) Conditions for Holding Provision Removal

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The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following conditions have been satisfied:

- i) A Cultural Heritage Impact Assessment has been submitted demonstrating how the cultural heritage value has been incorporated and maintained to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton; and,
- ii) That conditional site plan approval be received, to the satisfaction of the Director of Planning, and Chief Planner, City of Hamilton.

(By-law 18-114, May 9, 2018)

23. Notwithstanding Subsection 9.13.1 of this By-law, on those lands zoned Shipping and Navigation (Port Lands) Zone, identified on Maps 788, 828, 829, 830, 833, 834, 870, 871, 872, 875, 876, 917, 918, and 959 of Schedule "A" – Zoning Maps, the development of a Waste Processing Facility or a Waste Transfer Facility shall not be permitted until such time as:

- i) The Owner/Applicant submit and receive approval of an Air Quality Study, prepared by a qualified Professional, and should a peer review of the Study be warranted, all associated costs of this review should be borne by the owner/applicant and shall be submitted to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- ii) The Owner/Applicant submit and receive approval of a Functional Servicing Report, prepared by a qualified Professional Engineer, to measure acceptable levels of quality control for stormwater discharge into Hamilton Harbour, water, and wastewater, to the satisfaction of the Senior Director of Growth Management.
- iii) The Owner/Applicant submit and receive approval of a Transportation Impact Study, prepared by a qualified Professional Traffic Engineer, to measure and determine the preferred truck route and impact on the residential neighbourhood, to the satisfaction of the Director of Engineering Services, Public Works Department.

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- iv) The Owner/Applicant submit and receive approval of a Hydrogeological Study, prepared by a qualified Professional Engineer, to demonstrate the staging and handling of wastes, and the potential impacts on groundwater quality and quantity, to the satisfaction of the Senior Director of Growth Management.
- v) The Owner/Applicant investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment and Climate Change (MOECC) recommended sound level limits. An acoustical report shall be prepared by a qualified Professional containing the recommended control measures, and should a peer review of the Acoustical Report be warranted, all associated costs should be borne by the owner/applicant and shall be submitted to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- vi) The Owner/Applicant submit and receive approval of a Human Health Risk Assessment, prepared by a qualified Professional, to demonstrate the potential of air and water emissions and its effects on residents, to the satisfaction of Hamilton's Medical Officer of Health.
- vii) The "H" Symbol may be removed upon implementation of recommendations of studies required under Clauses i) to vi), and shall only be removed on portions of the land that are subject to the Waste Processing Facility and a Waste Transfer Facility.

(By-law No. 18-092, April 11, 2018)

(By-law No. 21-189, October 15, 2021)

24. Notwithstanding Section 9.2 and Special Exception No. 389 of this By-law, on those lands zoned General Business Park (M2) Zone, identified on Map 580 of Schedule "A" – Zoning Maps and described as 91 Highway 5 West, site alteration shall not be permitted until a Certificate of Approval has been granted by the Ministry of the Environment pursuant to Section 9 of the Environmental Protection Act, for the Open Storage of operational assets with restrictions on loading and unloading during non-daytime hours.

(By-law 10-128, May 26, 2010)

25. Notwithstanding Section 9.3 and Special Exception No. 401 of this By-law, on those lands zoned Prestige Business Park (M3) Zone, identified on Map 1149 of

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Schedule "A" – Zoning Maps and described as 404 Fruitland Road, the subject property shall be used only for the uses existing on the date of the passing of this By-law until such time as an Environmental Report which indicates that it is environmentally sound to develop any of the permitted uses on the site has been completed and approved by the Director of Planning.

(By-law 10-128, June 28, 2011)

26. (By-law 10-128, June 28, 2011)
(Removed by By-law 21-103, June 9, 2021)

27. That notwithstanding Section 8.2 of this By-law, on those lands zoned Community Institutional (12, 24) Zone, on Maps 1285, 1231 and 1232 of Schedule "A, no development except for a Place of Worship and any uses accessory thereto, shall be permitted until such time as:
 - (i) The owner/applicant has demonstrated that all requirements of the agreement registered on title as Instrument No. 108792 (Registry) and LT315440 (Land Titles) on January 17th, 1992, have been complied with, to the satisfaction of the Director of Development Engineering.

- (By-law 09-250, December 9, 2009)

28. Notwithstanding Section 9.3 of this By-law, on those lands zoned Prestige Business Park (M3) Zone, identified on Maps 1501 and 1548 of Schedule "A" – Zoning Maps and described as lands located at the southwest corner of Highland Road and the Future Trinity Church Road Extension, site alteration shall be conditional upon the following:
 - a. The Owner completing a hydrogeological and geotechnical study, to the satisfaction of the Director of Development Engineering, in consultation with the Senior Director of Water and Wastewater Division, and the Planning Director of the Hamilton Conservation Authority; and,
 - b. The Owner submitting and implementing a functional servicing report that addresses such matters as, but is not limited to, stormwater management and sanitary capacity for proposed development densities, to the satisfaction of the Director of Development Engineering."

(By-law 10-128, June 28, 2011)

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29. Notwithstanding Section 9.4 of this By-law, on those lands zoned Business Park Support (M4) Zone, identified on Maps 949 and 991 of Schedule "A" – Zoning Maps and described as 611 Aberdeen Avenue, site alteration shall be conditional upon the following:

- a. Provision of an adequate sanitary sewer outlet to service the subject property directly;
- b. Dedication to the City of Hamilton, if required, of a portion(s) of the subject property for road widening purposes; and,
- c. Final approval of the West Hamilton Innovation District Secondary Plan.

(By-law No. 10-128, May 26, 2010)

(By-law No. 18-219, August 17, 2018)

32. Notwithstanding Section 10.5 of this By-law, within lands zoned Mixed Use Medium Density (C5, 705) Zone on Map 1195 on Schedule "A – Zoning Maps, and described as 928 Queenston Road (Stoney Creek), no development shall be permitted until such time as:

- (i) The owner enters into a conditional building permit agreement with respect to the completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECC, and submission of the City of Hamilton's current RSC administration fee.

(By-law No. 18-349, December 19, 2018)

33. Notwithstanding Section 10.3 of this By-law, within lands zoned Community Commercial (C3, 639) Zone on Map 1234 and 1287 on Schedule "A – Zoning Maps and described as 630 Stone Church Road West, no development shall be permitted until such time as:

- a) The owner receives final approval of a Site Plan Control application to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 20-029, February 12, 2020)

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW****34. Deleted.**

(By-law No. 20-036, February 27, 2020)

(By-law No. 22-038, February 23, 2022)

35. Notwithstanding Section 8.3 of this By-law, within lands zoned Major Institutional (I3, H35) Zone, identified on Maps 1080 and 1129 of Schedule "A" – Zoning Maps and described as 555 Sanatorium, no development shall be permitted until such time as:

- i) The applicant completes and implements an updated Functional Servicing Report (FSR) and sanitary sewer capacity analysis, to the satisfaction of the Manager of Development Approvals.

(By-law No. 21-059, April 28, 2021)

36. Notwithstanding Section 8.3 and 10.5 of this By-law, within lands zoned Major Institutional (I3, 744) Zone, identified on Maps 1252 and 1305 of Schedule "A" – Zoning Maps and described as 466 to 490 Highway No. 8, no development shall be permitted until such time as:

- i) Necessary upgrades are completed to the sanitary sewer system and necessary payments are provided, to the satisfaction of the Manager of Engineering Approvals.

(By-law No. 21-133, August 13, 2021)

37. Notwithstanding Subsections 8.2, 8.3, 9.7, 9.8, 9.9, 9.10, 9.11 and 9.12, on those lands zoned Community Institutional (I2) Zone, Major Institutional (I3) Zone, Airside Industrial (M7) Zone, Airport Related Business (M8) Zone, Airport Reserve (M9) Zone, Airport Light Industrial (M10) Zone, Airport Prestige Business (M11) Zone, and Extractive Industrial (M12) Zone, site alteration shall only be permitted in accordance with Subsections 1.11 d) and e) and Subsections 9.7.4 and 9.11.4, until such time as:

- a. That lands have access to servicing, the provision of adequate municipal water, municipal wastewater, and transportation infrastructure in accordance with the respective master plans for the Airport Employment Growth District to the Satisfaction of the Director of Development Engineering.

(By-law No. 10-288, October 13, 2010/ By-law No. 15-118, April 10, 2015 – OMB approval)

(By-law No. 18-219, August 17, 2018)

(Removed by By-law No. 19-007, January 23, 2019 for 73 and 110 Aeropark Boulevard, Glanbrook)

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38. (Removed by By-law No. 10-305, December 15, 2010)
39. Notwithstanding Section 8.3 of this By-law, within lands zoned Major Institutional (I3, 745) Zone, identified on Maps 1375 and 1376 of Schedule "A" – Zoning Maps and described as 1411 and 1415 Upper Wellington Street, no development or demolition shall be permitted until such time as:
- i) The Owner / Applicant provides a signed agreement with the property owner to the north and east to allow for drainage to outlet to private lands, to the satisfaction of the Manager of Development Engineering Approvals.
 - ii) The Owner / Applicant provides a signed agreement with the property owner to the south allowing for reception of stormwater flows through their site via connection to a private storm sewer system and outlet of emergency overland flow route, to the satisfaction of the Manager of Development Engineering Approvals.
 - iii) That the Owner / Applicant implement the Documentation and Salvage Report by submitting confirmation that materials have been appropriately salvaged from the building on-site, to the satisfaction of the Director of Planning and Chief Planner.
- (By-law 21-175, October 13, 2021)
41. (Removed by By-law 12-264, November 28, 2012)
42. Notwithstanding Section 8.3, within the lands zoned Neighbourhood Institutional (I1) Zone, identified on Maps 1283, 1335 and 1388 of Schedule "A" – Zoning Maps, and described as 435 Garner Road East (Ancaster), no development shall proceed until the following has been completed, to the satisfaction of the Director of Development Engineering:
- i) Stage 2 upgrades to Sanitary Sewer Pumping Station HC061 have been implemented;

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- ii) The downstream gravity system north of Gray Court Drive has been upgraded, as per the recommendation of the Southcote Woodlands Pumping Station Design Brief, dated September 2007;
- iii) A sanitary sewer outlet is identified, designed/constructed to service the subject lands;
- iv) A road connection through Block 186 to the east, from John Frederick Drive has been determined and deeded to the City of Hamilton; and,
- v) The downstream creek restoration works have been completed in accordance with the Garner Neighbourhood Master Drainage Plan and supplementary investigation.

(By-law 10-286, October 13, 2010)

44. Notwithstanding Section 6.2 and Special Exception No. 442 of this By-law, on those lands zoned Downtown Mixed Use – Pedestrian Focus (D2) Zone, identified on maps 867 and 868 of Schedule "A" – Zoning Maps no development shall be permitted until such time as:

- i) A Vibration Study, prepared by a qualified Professional Engineer, completed to the satisfaction of the Director of Planning, Planning and Economic Development Department; and,
- ii) An Urban Design Brief and Campus Masterplan, to the satisfaction of the Director of Planning, Planning and Economic Development Department.

That notwithstanding Section 6.2 and Special Exception No.442 of this By-law, on those lands zoned Downtown Mixed Use – Pedestrian Focus (D2) Zone, identified on maps 867 and 868 of Schedule "A" – Zoning Maps no development of a Production Studio shall be permitted until such time as:

- (i) A Traffic Management Plan, to the satisfaction of the Director of Transportation Planning and Parking, Planning and Economic Development Department.

(Amended by By-law 19-066, April 10, 2019)

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45. Notwithstanding Section 6.6 and Special Exception No. 443 of this By-law, on those lands zoned Downtown Multiple Residential (D6) Zone, identified on Maps 867 and 868 of Schedule "A" – Zoning Maps, no development shall be permitted until such time as:
- i) a Noise Study, prepared by a qualified Professional Engineer, which shall address site layout and design including the location of outdoor amenity space, and building design including the location of non-habitable space, shall be completed in consultation with the appropriate railway company to the satisfaction of the Director of Planning, Planning and Economic Development Department to ensure that maximum sound levels are not exceeded in accordance with provincial guidelines including NPC 205;
 - ii) prior to any site alteration, a signed Record of Site Condition (RSC) shall be submitted to the City of Hamilton, Director of Planning, Planning and Economic Development Department and the Ministry of the Environment (MOE). This RSC, must be to the satisfaction of the City of Hamilton, including acknowledgement of receipt of the RSC by the MOE; and,
 - iii) an Urban Design Study for the Barton/Tiffany area, to the satisfaction of the Director of Planning, Planning and Economic Development Department.
- (By-law 12-164, June 26, 2012)
46. Notwithstanding Section 6.5 and Special Exception No. 444 of this By-law, on those lands zoned Downtown Residential (D5) Zone, identified on Map 868 of Schedule "A" – Zoning Maps, no development shall be permitted until such time as:
- i) receiving approval of a Site Plan Control Application, to the satisfaction of the Director of Planning, Planning and Economic Development Department; and,
 - ii) a Noise and Vibration Study, prepared by a qualified Professional Engineer, which shall address site layout and design including the location of outdoor amenity space, and building design including the location of non-habitable space, shall be completed in consultation with the appropriate railway company to the satisfaction of the Director of Planning, Planning and Economic Development Department to ensure

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that maximum sound levels are not exceeded in accordance with provincial guidelines including NPC 205; and,

- iii) prior to any site alteration, a signed Record of Site Condition (RSC) submitted to the City of Hamilton, Director of Planning, Planning and Economic Development Department and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including acknowledgement of receipt of the RSC by the MOE; and,
- iv) an Urban Design Study for the Barton/Tiffany Area, to the satisfaction of the Director of Planning, Planning and Economic Development Department.

(By-law 12-164, June 26, 2012)

47. Notwithstanding Section 6.6 and Special Exception No.445 of this By-law, on those lands zoned Downtown Multiple Residential (D6) Zone, identified on Maps 867 and 868 of Schedule "A" – Zoning Maps and legally described as Part of Lot 3 and All of Lots 4, 5, 6, and 7, block 30, Registered Plan 127 in the City of Hamilton, Designated as Parts 3, 4, 5,6, 7, 8 on Plan 62R-19307, no development shall be permitted until such time as:

- i) a Noise Study, prepared by a qualified Professional Engineer which shall address site layout and design including the location of outdoor amenity space, and building design including the location of non-habitable space, shall be completed in consultation with the appropriate railway company to the satisfaction of the Director of Planning, Planning and Economic Development Department to ensure that maximum sound levels are not exceeded in accordance with provincial guidelines including NPC 205;
- ii) prior to any site alteration, a signed Record of Site Condition (RSC) shall be submitted to the City of Hamilton and the Ministry of the Environment (MOE). This RSC must include acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee be to the satisfaction of the Director of Planning, Planning and Economic Development Department; and,
- iii) receiving final approval of a Site Plan Control Application in accordance with Schedule "B" – Property Details Figure 1, to the satisfaction of the Director of Planning, Planning and Economic Development Department.

(By-law 12-164, June 26, 2012)

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48. (Removed by By-law No. 15-078, March 11, 2015)
49. (Removed by By-law No. 14-050, March 26, 2014)
50. That notwithstanding Section 7.4 of this By-law, on those lands zoned Open Space (P4, H50) Holding Zone, on Map No. 1594 of Schedule "A", known as 1925 Rymal Road East (Stoney Creek), no development shall be permitted until such time as:
- (i) An Archaeological Assessment has been completed, to the satisfaction of the Director of Planning, City of Hamilton, and the Ministry of Culture and Tourism.
(By-law No. 13-020, January 23, 2013)
51. (Removed by By-law No. 13-241, September 25, 2013)
52. (Removed by By-law No. 14-079, April 9, 2014)
53. Notwithstanding Section 8.1 Neighbourhood Institutional (I1) Zone of this By-law, on those lands zoned Neighbourhood Institutional (I1, 458) Zone, no development shall be permitted until such time as:
- (i) The owner has paid the proportionate share of the costs associated with the sanitary and storm mainline sewers along Rymal Road East including private drain connections, to the satisfaction of the Senior Director of Growth Management;
 - (ii) The owner has applied for and received final Site Plan approval, to the satisfaction of the Manager of Development Planning, Heritage and Design; and,
 - (iii) The funded and scheduled reconstruction of Rymal Road East in front of the subject lands has been determined, and coordinated to be completed concurrent with the construction of the development proposal. This shall not be later than the Fall of 2015 or the 'H' Holding Provision can be removed, but the 'H' symbol may be removed earlier if the aforementioned road works are completed sooner. Removal of the 'H' Holding Provision is to the satisfaction of the Director of Planning and the Manager of Engineering Approvals.

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(By-law No. 14-178, July 11, 2014)

54. That notwithstanding Section 6.3 and Schedule "C" – Special Exceptions, of this By-law, on those lands zoned Downtown Mixed Use (D3, 461) Zone, on Map 1091 of Schedule "A" - Zoning Maps, described as 55 Queenston Road, no development shall be permitted until such time as:
- (i) The owner/applicant submits a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee.

(By-law No. 14-267, September 24, 2014)

55. Notwithstanding Section 9.3 of this By-law, within the lands zoned Prestige Business Park (M3, 465) Zone, Modified, on Maps 1500 and 1501 of Schedule "A", known as 406 Pritchard Road (Hamilton), no development shall be permitted until such time as:
- 1. An updated Environmental Impact Study is received and approved, to the satisfaction of the Director of Planning and in consultation the Hamilton Conservation Authority.
 - 2. The owner enters into a Development Agreement with the City of Hamilton to address the future Harbour Road extension and ultimate right-of-way width, including financial and other arrangements, to the satisfaction of the Senior Director of Growth Management.

(By-law No. 14-269, September 24, 2014)

56. That notwithstanding Section 6.2 of this By-law, on those lands zoned Downtown Prime Retail Streets (D2, 467, H56) Holding Zone, on Schedule 952 of Schedule "A", known as 98 James Street South (Hamilton), no development shall be permitted until such time as:
- (i) the Ministry of the Environment issues acknowledgement of the submission by the owner/applicant of a Record of Site Condition to the satisfaction of the Director of Planning.

(By-law No. 15-024, January 21, 2015)

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57. Notwithstanding Section 9.11 this By-law, on those lands zoned Airport Prestige Business (M11) Zone, identified on Maps 1387, 1388, 1438, 1439 and 1487 of Schedule "A" – Zoning Maps and described as the south west corner of Garner Road East and Highway No.6, shall be conditional upon the following special requirements:
- a) A sanitary, water, stormwater and transportation Servicing Report for the Gateway Lands together with and an Update to the *City of Hamilton Airport Employment Growth District Water and Wastewater Servicing Master Plan* have been completed to the satisfaction of the City of Hamilton.
(By-law No. 10-288, October 13, 2010/ By-law No. 15-118, April 10, 2015 – OMB approval)
58. (Removed by By-law No. 19-075, April 10, 2019)
59. Notwithstanding Section 8.2 of this By-law, within the lands zoned Community Institutional, Modified, Holding (12, H59) identified on Maps 1448, 1496 and 1497 of Schedule "A" and described as 630 Rymal Road East, the (H59) symbol may be removed by further amendment to this By-law at such time as the following conditions have been satisfied:
- 1. That a Noise Study be completed for the stadium component of the school site in order to determine the impact of the audio components of the track on the abutting residential area and establish appropriate mitigation measures for such impacts. In order for the "H" Holding Provision to be lifted a comparative analysis of other track audio systems will be necessary to determine what a reasonable noise level will be and how it can be achieved. The Noise Study must be submitted to the satisfaction of the Manager of Development Planning, Heritage and Design.
(By-law No. 15-207, September 9, 2015)
60. That notwithstanding Section 6.2 of this By-law, on those lands zoned Downtown Prime Retail Streets (D2, 451) Zone, on Map 952 of Schedule "A", known as 108 James Street North and 111 and 115 Hughson Street North, no development shall be permitted until such time as:
- (i) The Ministry of the Environment issues acknowledgement of the submission by the owner/applicant of a Record of Site Condition to the

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satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

- (ii) That the Owner prepare a Conservation Management Plan that shall include, short, medium and long-term conservation and maintenance measures for the existing theatre, and a schedule of implementation, all to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- (iii) That the Owner demonstrate to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton, that the properties known as 108 James Street North, 111 Hughson Street North and 115 Hughson Street North, have all merged in title.
- (iv) That the Owner enter into and register on title the following agreements with the City:
 - (a) an agreement pursuant to Section 37(1) of the Ontario Heritage Act for 111 Hughson Street North, 115 Hughson Street North and 108 James Street North, which:
 - 1) Shall ensure that no residential occupancy of the lands identified as 108 James Street North will occur until such time that:
 - i) The City of Hamilton receives confirmation that the Building envelope of lands identified as 111 Hughson Street North is in sound and secure state.
 - ii) Installation and/or upgrade of utilities pursuant to the Ontario Building Code to ensure long-term conservation of the interior features of the building on lands identified as 111 Hughson Street North.
 - iii) Implementation of short-term conservation measures for designated interior features in the auditorium (as outlined in the Conservation Management Plan), consisting of stabilization and repair of remaining historic fabric, including the ceilings, proscenium, colonnades, statuary and other decorative wall elements.

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- iv) Completion of sufficient works to permit the Chief Building Official to issue occupancy permit and use of lands identified as 111 Hughson Street North as a theatre.
- 2) Contains a conservation easement to secure the long term conservation and maintenance of the theatre and its heritage features and any further covenants to secure the restoration of the theatre on the property.
- 3) Restrict the uses to that contained in this zoning by-law amendment and which contains provisions requiring the provision of securities in the form of cash or a letter of credit in an amount equal to 75% of the cost required to complete the works outlined in 1) above, and released only once the works have been complete.
- 4) Shall ensure that the Conservation Management plan be implemented according to the schedule of implementation as set out in 4(ii) of this By-law.

All to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

- (b) A Restrictive Covenant prohibiting the use and/or expansion of 111 Hughson Street North (as per the attached Concept Plan) to only the use of the lands as a theatre within the existing building.
- (c) A Restrictive Covenant preventing the demolition of the building identified as 115 Hughson Street North and requiring the adaptive re-use and maintenance of the building in accordance with the uses and By-law provisions approved through By-law No. 15-188.
- (v) That the Owner apply for and receive Heritage Permit approval for the proposed demolition of the lobby (By-law 90-255) and any changes to the remaining auditorium (By-law 04-256) to the satisfaction and approval of the Director of Planning and Chief Planner, City of Hamilton.
- (vi) That a revised Cultural Heritage Impact Assessment report be submitted for review by the Hamilton Municipal Heritage Committee and revised, as

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appropriate, to the satisfaction and approval of the Director of Planning and Chief Planner, City of Hamilton.

- (vii) That conditional site plan approval be received, which shall address matters including but not limited to Design Review Panel advice and implementation of the Cultural Heritage Impact Assessment report, finalized as per Condition (v) to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- (viii) That the Owner submit and receive approval for the site servicing plans for the subject lands to the satisfaction of the Senior Director of Growth Management.
- (ix) That the Owner submit and receive approval of a water servicing report signed and stamped by a qualified professional engineer to demonstrate adequate domestic and fire demands for the proposed uses and to demonstrate the capacity of the distribution system to meet the domestic and fire demands utilizing the City's WaterCAD model to the satisfaction of the Senior Director of Growth Management.
- (x) That the Owner submit and receive approval of a Functional Servicing Report to address Stormwater Management, Water and Wastewater to the satisfaction of the Senior Director of Growth Management.
- (xi) That the Owner investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Manager of Development Planning, Heritage and Design.

Should a peer review of the acoustical report be warranted, all associated costs should be borne by the owner/applicant and shall be submitted to the satisfaction of the Manager of Development Planning, Heritage and Design.

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- (xii) That the Owner agree in writing to register on title the final approved Site Plan, to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

(By-law No. 15-188, August 14, 2015)

61. Notwithstanding Section 9.3 of this By-law, on those lands zoned Prestige Business Park (M3, 354, 441, 471) Zone, on Map 1634, 1676 and 1677 of Schedule "A", a Hazardous Waste Transfer Facility shall not be permitted until such time as:

- (i) The owner/operator shall complete all of the site works as indicated on the approved site plans SPA-10-034 AND SPA-11-059 having conditions of approval dated June 9, 2010 and June 2, 2011 respectively, all to the satisfaction of the Manager of Development Planning, Heritage and Design;
- (ii) The owner/operator shall be in full compliance with the Ontario Building Code and the Ontario Fire Code including Part 4 and Subsections 3.3.2 to address indoor general storage, storage and handling of flammable and combustible liquids, spill control procedures, sprinkler protection and the approved fire safety plan to the satisfaction of the Hamilton Fire Department. A letter signed by a Professional Engineer indicating compliance with Part 4 and Subsections 3.3.2 of the OFC shall be forwarded to the Hamilton Fire Department;
- (iii) The owner/operator shall provide a water supply calculation to the satisfaction of the Director, Hamilton Water;
- (iv) The owner/operator shall provide an Emergency Management Plan to the satisfaction of the Hamilton Fire Department and City's Public Works Department;
- (v) The owner/operator shall receive approval of a Site Plan Amendment application to amend Site Plan SPA-11-059, in order to provide an additional landscape berm along the north property line, which will extend from the limits of the existing berm to the rear property line, with appropriate landscaping, to the satisfaction of the Manager of Development Planning, Heritage and Design.

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(By-law No. 21-106-LPAT-03 September 25, 2015)

63. Notwithstanding Section 11.1 of this By-law, on those lands zoned Transit Oriented Corridor Mixed Use Medium Density (TOC1) Zone, identified on Maps 947 and 948 of Schedule "A" – Zoning Maps and described as:

| | |
|-------------------------|------------------|
| 13 Leland Street | Map 948 |
| 15 Leland Street | Map 948 |
| 23 Leland Street | Maps 947 and 948 |
| 80 Sussex Street | Map 948 |
| 82 Sussex Street | Map 948 |
| 86 Sussex Street | Map 948 |
| 90 Sussex Street | Map 948 |
| 94 Sussex Street | Map 948 |
| 98 Sussex Street | Map 948 |
| 102 Sussex Street | Map 948 |
| 43 Forsyth Avenue South | Map 948 |
| 47 Forsyth Avenue South | Map 948 |
| 55 Forsyth Avenue South | Map 948 |
| 59 Forsyth Avenue South | Map 948 |
| 51 Forsyth Avenue South | Map 948 |
| 50 Dalewood Avenue | Map 948 |
| 75 Traymore Avenue | Map 948 |
| 77 Traymore Avenue | Map 948 |
| 81 Traymore Avenue | Map 948 |
| 83 Traymore Avenue | Map 948 |
| 99 Traymore Avenue | Map 948 |
| 103 Traymore Avenue | Map 948 |
| 107 Traymore Avenue | Map 948 |
| 111 Traymore Avenue | Map 948 |
| 115 Traymore Avenue | Map 948 |
| 1190 Main Street West | Map 948 |

Development shall only be permitted in accordance with the regulations of Special Exception No. 296 until such time as:

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- (i) Land assembly has occurred in order to establish appropriately sized lots for redevelopment, to the satisfaction of the Director of Planning.

(By-law No. 16-265, October 12, 2016)

(By-law No. 18-219, August 17, 2018)

64. (Removed by By-law No. 21-240, December 15, 2021)

65. (Removed by By-law No 19-062, March 27, 2019)

66. (Removed by By-law No. 19-053, March 27, 2019)

67. (Removed by By-law No. 19-053, March 27, 2019)

69. Notwithstanding the regulations of Special Exception No. 672, within the lands zoned Conservation / Hazard Land (P5) Zone, identified on Map 1034 of Schedule "A" – Zoning Maps, and described as Part of 870 Scenic Drive, no development shall be permitted until such time as:

- (i) The applicant submits a Master Site Plan and Precinct Plan for each development phase, as set out in the Urban Hamilton Official Plan, Chedmac Secondary Plan, which includes the required studies, to the satisfaction of the Director of Planning;
- (ii) The applicant submits urban design guidelines, as set out in the Urban Hamilton Official Plan, Chedmac Secondary Plan, to the satisfaction of the Director of Planning;
- (iii) The applicant submits architectural control guidelines, as set out in the Urban Hamilton Official Plan, Chedmac Secondary Plan, to the satisfaction of the Director of Planning;
- (iv) The applicant submits an urban design report, as set out in the Urban Hamilton Official Plan, Chedmac Secondary Plan, to the satisfaction of the Director of Planning;
- (v) Where the Moreland and Brow Annex buildings are not to be retained, the applicant submits a report which demonstrates that

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retention and reuse of such buildings is not structurally feasible, to the satisfaction of the Director of Planning.

(By-law No. 18-219, August 17, 2018)

70. (Removed by By-law No. 19-275, November 13, 2019)

71. (Removed by By-law No. 19-063, March 27, 2019)

73. Notwithstanding Subsections 10.5a of this By-law, within lands zoned Mixed Use Medium Density – Pedestrian Focus (C5a, 723) Zone on Map 911 on Schedule "A" – Zoning Maps, and described as 80 and 92 Barton Street East, and 245 Catharine Street North, no development shall be permitted until such time as:

- i) That the owner submits and receives approval of a Documentation and Salvage Report in accordance with the City of Hamilton Documentation and Salvage Report guidelines to the satisfaction of the Director of Planning and Chief Planner;
- ii) That the owner submits and receives approval of a revised fire flow calculation based on the more advanced building design plans to demonstrate that the exiting watermain can provide for sufficient flow for firefighting for the future development on site all to the satisfaction of the Manager of Engineering Approvals; and,
- iii) The owner submits a signed Record of Site Condition to the City of Hamilton and the Ministry of the Environment Conservation and Parks (MOECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton's current RSC administration fee.

(By-law No. 19-081, April 24, 2019)

74. Notwithstanding Section 6.6 and Special Exception No. 696 of this By-law, within the lands zoned Downtown Multiple Residential (D6, 696) Zone identified on Map Nos. 1092 and 1141 of Schedule A - Zoning Maps and described as 20 Reid Avenue North, 11-17 Reid Avenue South, 22-116

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Lang Street and 2-24 Hayes Avenue, development shall be restricted in accordance with the following:

a) For such time as the Holding Provision is in place no development exceeding the maximum height of 12.0 metres shall be permitted;

b) Conditions for Holding Provision Removal:

a. The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from the lands when the following conditions have been satisfied:

i) The Owner/Applicant submits and implements the following studies demonstrating that a 41.5 metre multiple dwelling complies and implements the Urban Design, Energy and Environmental Design and Health and Public Safety Policies of the Urban Hamilton Official Plan, amongst others, prior to the development to the satisfaction of the Director of Planning and Chief Planner:

- a. Urban Design Brief;
- b. Visual Impact Assessment;
- c. Shadow Impact Study; and,
- d. Noise Study.

ii) That the Owner demonstrate that the proposed development does not exceed the maximum density of 165 units per hectare in accordance with Site Specific Policy Area UH -25 in Volume 3 of the Urban Hamilton Official Plan and does not exceed 840 units for the lands zoned Downtown Multiple Residential (D6, 696) Zone, to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 21-243, December 14, 2021)

75. Notwithstanding Section 11.1 of this By-law, within the lands zoned Transit Oriented Corridor Mixed Use Medium Density (TOC1, 772) Zone on Map No. 949 on Schedule "A" – Zoning Maps, and described as 1107 Main Street West, Hamilton, no development shall be permitted until such time as:

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- a. A Pedestrian Wind Study has been submitted and implemented to the satisfaction of the Director of Planning and Chief Planner;
- b. A Documentation and Salvage Report in accordance with the City's Guidelines for Documentation and Salvage Reports be submitted and implemented all to the satisfaction of the Director of Planning and Chief Planner prior to any demolition and the owner shall demonstrate that a copy of this report shall be submitted by the owner to the Hamilton Public Library;
- c. That a Conservation Management Plan, which address the conservation strategy for the retained front façade, and incorporation of salvage materials into the proposed design be submitted, approved and implemented through a Site Plan Agreement, to the satisfaction of the Director of Planning and Chief Planner prior to any demolition; and,
- d. That an updated Cultural Heritage Impact Assessment be submitted to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 22-163, June 22, 2022)

80. Notwithstanding Subsections 10.2, 10.3, 10.5 and 10.7 and Special Exception No. 300 of this By-law, on those lands zoned Neighbourhood Commercial (C2, 300) Zone, Modified, Community Commercial (C3, 300) Zone, Modified, Mixed Use Medium Density (C5, 300) Zone, Modified, and Arterial Commercial (C7, 300) Zone, Modified, identified on Maps 956, 957, 998, 999, 1046 and 1238 of Schedule "A" – Zoning Maps and described as:

| Property Address | Map Number |
|---------------------|------------|
| 194 Avondale Street | 956 |
| 196 Avondale Street | 956 |
| 197 Avondale Street | 956 |
| 198 Avondale Street | 956 |
| 199 Avondale Street | 956 |
| 200 Avondale Street | 956 |
| 201 Avondale Street | 956 |
| 203 Avondale Street | 956 |
| 204 Avondale Street | 956 |
| 205 Avondale Street | 956 |

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| Property Address | Map Number |
|------------------------|-------------|
| 206 Avondale Street | 956 |
| 207 Avondale Street | 956 |
| 208 Avondale Street | 956 |
| 209 Avondale Street | 956 |
| 210 Avondale Street | 956 |
| 212 Avondale Street | 956 |
| 214 Avondale Street | 956 |
| 216 Avondale Street | 956 |
| 217 Avondale Street | 956 |
| 218 Avondale Street | 956 |
| 219 Avondale Street | 956 |
| 220 Avondale Street | 956 |
| 221 Avondale Street | 956 |
| 222 Avondale Street | 956 |
| 223 Avondale Street | 956 |
| 224 Avondale Street | 956 |
| 226 Avondale Street | 956 |
| 228 Avondale Street | 956 |
| 797 Barton Street East | 956 |
| 799 Barton Street East | 956 |
| 889 Barton Street East | 956 |
| 891 Barton Street East | 956 |
| 893 Barton Street East | 956 |
| 895 Barton Street East | 956 |
| 897 Barton Street East | 956 |
| 901 Barton Street East | 956 |
| 903 Barton Street East | 956 |
| 905 Barton Street East | 956 |
| 909 Barton Street East | 956 |
| 913 Barton Street East | 956 |
| 915 Barton Street East | 956 |
| 925 Barton Street East | 956 |
| 954 Barton Street East | 956 and 957 |
| 970 Barton Street East | 957 and 999 |
| 973 Barton Street East | 957 |
| 983 Barton Street East | 957 |
| 984 Barton Street East | 957 and 999 |

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| Property Address | Map Number |
|---------------------------|------------------|
| 985 Barton Street East | 957 |
| 986 Barton Street East | 957 and 999 |
| 991 Barton Street East | 957 |
| 999 Barton Street East | 957 and 999 |
| 1015 Barton Street East | 957 and 999 |
| 1850 Barton Street East | 1046 |
| 1860 Barton Street East | 1046 |
| 1870 Barton Street East | 1046 |
| 1880 Barton Street East | 1046 |
| 1890 Barton Street East | 1046 |
| 1900 Barton Street East | 1046 |
| 1910 Barton Street East | 1046 |
| 1920 Barton Street East | 1046 |
| 1930 Barton Street East | 1046 |
| 1940 Barton Street East | 1046 |
| 1950 Barton Street East | 1046 |
| 1960 Barton Street East | 1046 |
| 1970 Barton Street East | 1046 |
| 1980 Barton Street East | 1046 |
| 1990 Barton Street East | 1046 |
| 190 Cavell Avenue | 956 |
| 192 Cavell Avenue | 956 |
| 193 Cavell Avenue | 956 |
| 194 Cavell Avenue | 956 |
| 196 Cavell Avenue | 956 |
| 198 Cavell Avenue | 956 |
| 204 Gage Avenue North | 956 |
| 208 Gage Avenue North | 956 |
| 210 Gage Avenue North | 956 |
| 212 Gage Avenue North | 956 |
| 214 Gage Avenue North | 956 |
| 216 Gage Avenue North | 956 |
| 218 Gage Avenue North | 956 |
| 220 Gage Avenue North | 956 |
| 200 Glendale Avenue North | 957, 998 and 999 |
| 240 Glendale Avenue North | 998 and 999 |
| 242 Glendale Avenue North | 998 and 999 |

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| Property Address | Map Number |
|---------------------------|------------------|
| 244 Glendale Avenue North | 956, 998 and 999 |
| 246 Glendale Avenue North | 998 |
| 248 Glendale Avenue North | 956 |
| 250 Glendale Avenue North | 956 and 957 |
| 1 Gordon Street | 956 |
| 9 Gordon Street | 956 |
| 10 Gordon Street | 956 |
| 11 Gordon Street | 956 |
| 12 Gordon Street | 956 |
| 13 Gordon Street | 956 |
| 14 Gordon Street | 956 |
| 16 Gordon Street | 956 |
| 17 Gordon Street | 956 |
| 18 Gordon Street | 956 |
| 19 Gordon Street | 956 and 957 |
| 20 Gordon Street | 956 |
| 21 Gordon Street | 956 and 957 |
| 22 Gordon Street | 956 |
| 23 Gordon Street | 957 |
| 24 Gordon Street | 956 and 957 |
| 25 Gordon Street | 957 |
| 26 Gordon Street | 956 and 957 |
| 28 Gordon Street | 956 and 957 |
| 30 Gordon Street | 957 |
| 32 Gordon Street | 957 |
| 34 Gordon Street | 957 |
| 36 Gordon Street | 957 |
| 38 Gordon Street | 957 |
| 40 Gordon Street | 957 |
| 42 Gordon Street | 957 |
| 44 Gordon Street | 957 |
| 46 Gordon Street | 957 |
| 48 Gordon Street | 957 |
| 50 Gordon Street | 957 |
| 51 Gordon Street | 957 |
| 53 Gordon Street | 957 |
| 132 Hester Street | 1238 |

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

| Property Address | Map Number |
|-------------------|---------------|
| 138 Hester Street | 1238 |
| 141 Hester Street | 1184 and 1238 |
| 143 Hester Street | 1184 and 1238 |
| 146 Hester Street | 1238 |
| 151 Hester Street | 1238 |
| 152 Hester Street | 1238 |
| 158 Hester Street | 1238 |
| 160 Hester Street | 1238 |
| 8 Lincoln Street | 957 |
| 10 Lincoln Street | 957 |
| 11 Lincoln Street | 957 |
| 12 Lincoln Street | 957 |
| 13 Lincoln Street | 957 |
| 14 Lincoln Street | 957 |
| 15 Lincoln Street | 957 |
| 16 Lincoln Street | 957 |
| 17 Lincoln Street | 957 |
| 18 Lincoln Street | 957 |
| 19 Lincoln Street | 957 |
| 20 Lincoln Street | 957 |
| 21 Lincoln Street | 957 |
| 22 Lincoln Street | 957 |
| 23 Lincoln Street | 957 |
| 25 Lincoln Street | 957 |
| 26 Lincoln Street | 957 |
| 27 Lincoln Street | 957 |
| 29 Lincoln Street | 957 |
| 32 Lincoln Street | 957 |
| 33 Lincoln Street | 957 |
| 14 Linden Street | 957 |
| 16 Linden Street | 956 and 957 |
| 18 Linden Street | 957 |
| 19 Linden Street | 956 and 957 |
| 30 Linden Street | 957 |
| 2 Lloyd Street | 956 |
| 4 Lloyd Street | 956 |
| 6 Lloyd Street | 956 |

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

| Property Address | Map Number |
|------------------------------|------------|
| 8 Lloyd Street | 956 |
| 10 Lloyd Street | 956 |
| 12 Lloyd Street | 956 |
| 20 Lloyd Street | 956 |
| 26 Lloyd Street | 956 |
| 32 Lloyd Street | 956 |
| 34 Lloyd Street | 956 |
| 36 Lloyd Street | 956 |
| 38 Lloyd Street | 956 |
| 40 Lloyd Street | 956 |
| 42 Lloyd Street | 956 |
| 44 Lloyd Street | 956 |
| 46 Lloyd Street | 956 |
| 50 Lloyd Street | 956 |
| 52 Lloyd Street | 956 |
| 54 Lloyd Street | 956 |
| 56 Lloyd Street | 956 |
| 221 Melvin Avenue | 1046 |
| 291 Rosslyn Avenue North | 957 |
| 1012 Upper Wellington Street | 1238 |
| 1020 Upper Wellington Street | 1238 |
| 1028 Upper Wellington Street | 1238 |
| 1042 Upper Wellington Street | 1238 |
| 335 Woodward Avenue | 1046 |

Any proposed redevelopment of an existing industrial use(s) shall require the fulfilment of the following prior to redevelopment taking place:

- i) A signed Record of Site Condition (RSC) has been submitted to the Director of Planning and Chief Planner, and the Ministry of the Environment (MOE). This RSC, must be to the satisfaction of the City of Hamilton, including acknowledgement of receipt of the RSC by the MOE.

(By-law No. 17-240, November 8, 2017)

81. Notwithstanding Subsection 10.2 and Special Exception Nos. 304 and 333 of this By-law, on those lands zoned Neighbourhood Commercial (C2) Zone,

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Neighbourhood Commercial (C2, 304) Zone, Modified and Neighbourhood Commercial (C2, 333) Zone, Modified, identified on Maps 1388 and 1389 of Schedule "A" – Zoning Maps and described as 581, 587, 597 and 605 Garner Road East, no development shall be permitted until such time as:

- i) The lands are assembled and comprehensively planned and a site plan control application has been approved for the assemble property, which ensures that access driveways onto Garner Road East are minimized and property sited, to the satisfaction of the Director of Planning and Chief Planner;
- ii) Until such time as the Holding (H) provision is removed and the lands are redeveloped, the existing residential uses and the existing commercial uses may continue and minor additions, alterations or renovations shall be permitted. Any intensification that compromises the comprehensive redevelopment of the lands shall be prohibited.

(By-law No. 17-240, November 8, 2017)

82. Notwithstanding Subsection 10.3 and Special Exception Nos. 304 and 579 of this By-law, on those lands zoned Community Commercial (C3, 304, 579) Zone, Modified, identified on Map 1502 of Schedule "A" – Zoning Maps and described as 136, 144 and 146 Upper Mount Albion Road, no development shall be permitted until such time as:

- i) Municipal sanitary sewers, municipal water and storm sewers are available and adequate to service the subject lands and a development agreement has been entered into by the owner with the City, to the satisfaction of the Senior Director of Growth Management.

(By-law No. 17-240, November 8, 2017)

83. (Removed by By-law No. 21-063, April 28, 2021)

84. Notwithstanding Subsection 10.2 and Special Exception No. 325 of this By-law, on those lands zoned Neighbourhood Commercial (C2, 325) Zone, Modified, identified on Map 1247 of Schedule "A" – Zoning Maps and described as 2791 King Street East, no development shall be permitted until such time as:

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- i) The owner applies for and receives final approval Site Plan approval, to the satisfaction of the Director of Planning and Chief Planner, Planning and Economic Development Department; and,
- ii) That the Owner(s) of 2791 and 2803 King Street East enter into an agreement with the City to be registered against the title of both the lot upon which parking is to be provided and the lot containing the use requiring the parking, to the satisfaction of the Director of Planning and Chief Planner, Planning and Economic Development Department.

(By-law No. 17-240, November 8, 2017)

85. Notwithstanding Subsection 10.2 and Special Exception No. 328 of this By-law, on those lands zoned Neighbourhood Commercial (C2, 328) Zone, identified on Map 1388 of Schedule "A" – Zoning Maps and described as part of 515 Garner Road East and Parts of 515, 527, and 535 Garner Road East, and 523 Garner Road East, no development shall be permitted until such time as:

- i) The lands are assembled and comprehensively planned and a site plan control application has been approved for the assemble property, which ensures that access driveways onto Garner Road East are minimized, to the satisfaction of the Director of Planning and Chief Planner, Planning and Economic Development Department;
- ii) Until such time as the Holding (H) provision is removed and the lands are redeveloped, the existing residential uses and the existing commercial use may continue and minor additions, alterations or renovations shall be permitted. Any intensification that compromises the comprehensive redevelopment of the lands shall be prohibited.

(By-law No. 17-240, November 8, 2017)

86. Notwithstanding Subsection 10.5 and Special Exception No. 329 of this By-law, on those lands zoned Mixed Use Medium Density (C5, 329) Zone, Modified, identified on Maps 1178 and 1179 of Schedule "A" – Zoning Maps and described as 1173 and 1203 Old Golf Links Road, no development shall be permitted until such time as:

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

- i) The approval of a servicing study and posting of appropriate securities to ensure implementation of the study's recommendations, to the satisfaction of the Manager of Engineering Design and Construction;
- ii) The approval of design drawings for the re-construction of Old Golf Links Road and the posting of appropriate securities to ensure implementation of the approved drawings, all to the satisfaction of the Manager of Engineering Design and Construction; and,
- iii) The owner/applicant conducts an archaeological assessment of the entire development property and mitigating, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and Chief Planner confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

(By-law No. 17-240, November 8, 2017)

87. Notwithstanding Subsection 10.6 and Special Exception Nos. 337 and 570 of this By-law, on those lands zoned District Commercial (C6, 337, 570) Zone, Modified, identified on Map 1911 of Schedule "A" – Zoning Maps and described as Part of 39 Garinger Crescent, no development shall be permitted until such time as:

- i) The subject lands are developed in conjunction with the lands to the east, being 2544 Regional Road 56, to the satisfaction of the Director of Planning and Chief Planner, Planning and Economic Development Department.

(By-law No. 17-240, November 8, 2017)

88. (Removed by By-law No. 19-217, September 11, 2019)

89. (Removed by By-law No. 19-217, September 11, 2019)

90. Notwithstanding Subsection 10.5 and Special Exception No. 552 of this By-law, on those lands zoned Mixed Use Medium Density (C5, 552) Zone, Modified, identified on Maps 1185 and 1239 of Schedule "A" – Zoning Maps

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

and described as 800 Upper Wentworth Street and 362 Mohawk Street East, no development shall be permitted until such time as:

- i) The owner receives final approval of a Site Plan Control application, to the satisfaction of the Director of Planning and Chief Planner, Planning and Economic Development Department.

(By-law No. 17-240, November 8, 2017)

- 91. Notwithstanding Subsection 10.6 and Special Exception No. 583, on those lands zoned District Commercial (C6, 583) Zone, identified on Map 444 and 445 of Schedule "A" – Zoning Maps and described as the south-easterly portion of 619 Centre Road and 645 Wigood Drive, no development shall be permitted until such time as:

- i) The final alignment of the East-West Corridor has been determined, to the satisfaction of the Senior Director of Growth Management.
- ii) That no commercial uses be developed until such time that the east-West Corridor has been constructed adjacent to the subject lands.

(By-law No. 17-240, November 8, 2017)

- 92. (Removed by By-law No. 19-165, July 12, 2019)

- 94. That notwithstanding Section 14 and Schedule "C" – Special Exceptions, of this By-law, on those lands zoned Waterfront – Multiple Residential (WF1) Zone, Waterfront – Multiple Residential (WF1, 483) Zone, Waterfront – Mixed Use (WF2) Zone, Waterfront – Prime Retail Streets (WF3) Zone, Waterfront – Prime Retail Streets (WF3, 484) Zone, and Community Institutional (I2, 486) Zone on Map 827 of Schedule "A" – Zoning Maps, described as Pier 8, 65 Guise Street, no development shall be permitted until such time as:

- (i) The owner submits a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton. The RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee.

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

- (ii) The owner investigates the noise, odour and dust levels on the site and determine and implement the noise, odour and /or dust control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended limits. An acoustical, odour and dust control report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the Director of Planning and Chief Planner.

Should a peer review of the acoustical, odour and dust report be warranted, all associated costs should be borne by the owner and shall be submitted to the satisfaction of the Director of Planning and Chief Planner.

- (iii) A sanitary pumping station and forcemain have been constructed and is operational to the satisfaction of the Senior Director of Growth Management.

(By-law No. 17-095-LPAT-01, May 24, 2017)

(By-law No. 22-084, April 13, 2022)

95. Notwithstanding Section 9.3 of this By-law, within the lands zoned Community Institutional (I2, 502) Zone, on Map Nos. 1246 and 1299 of Schedule A – Zoning Maps, and described as 50 Albright Road (Hamilton), the H symbol applicable to the lands referred to in Section 1 of this By-law shall permit development up to 139 dwelling units and shall be removed conditional upon:

a) The owner demonstrating that the existing 250mm sanitary sewer on Quigley Road can be adequately upsized to provide sufficient capacity for development greater than 139 dwelling units or adequately upgrade the sanitary sewer to meet the current City standards, to the satisfaction of the Senior Director, Growth Management.

b) City Council may remove the H symbol and thereby give effect to the '12, 502 District, as amended by the special requirements of this By-law, by enactment of an amending By-law once the above condition has been fulfilled.

(By-law No. 17-122, June 14, 2017)

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96. Notwithstanding Section 8.2 and Special Exception No. 644 of this By-law, on those lands zoned Community Institutional (12, 644) Zone, identified on maps 1174 and 1175 of Schedule "A - Zoning Maps and described as 357 Wilson Street East, Ancaster, no development shall be permitted until such time as a the Stage 3 archaeological assessment of Findspot 1 (Ancaster 1: AhGx- 718), as identified in the Stage 1-2 archaeological report P089-0072-2014, be completed, to the satisfaction of the Director of Planning and Chief Planner and the Ministry of Tourism, Culture and Sport.
97. Notwithstanding Subsection 10.3 of this By-law, on those lands zoned Community Commercial (C3) Zone, identified on Map 1405 of Schedule "A" – Zoning Maps and described as 420 First Road West, no development shall be permitted until such time as:
- i) That those lands located within the 50 dBA sound level of the rock crushing establishment (All Around Contracting Yard) not be developed until such time as the establishment ceases to operate, to satisfaction of the Director of Planning and Chief Planner.

(By-law No. 17-240, November 8, 2017)

98. Notwithstanding Subsection 10.5.1 and Special Exception No. 604, on those lands zoned Mixed Use Medium Density (C5, 604) Zone, Modified, identified on Maps 1548 and 1593 of Schedule "A" – Zoning Maps and described as Part of 1831 Rymal Road East, no development shall be permitted until such time as:
- i) The subject lands have been consolidated with adjacent lands to a minimum 1,500 square metres or until such time as the owner / applicant has applied for and received final approval of a Site Plan Control application demonstrating a viable development, to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 17-240, November 8, 2017)

99. Notwithstanding Subsection 10.3 of this By-law, on those lands zoned Community Commercial (C3) Zone, identified on Map 1405 of Schedule "A" – Zoning Maps and described as 420 First Road West, no development shall be permitted until such time as:

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

- i) That all residential lands within 160 metres of the working licensed limits of the active quarry or the limits of the former quarry under rehabilitation shall not be developed until such time as the completion of mining and the completion of rehabilitation on the quarry lands immediately adjacent to the Holding (H) Zone have been finalized to the satisfaction of the Director of Planning and Chief Planner; and,
- ii) That those lands located within the 50 dBA sound level demarcation of the All Around Contracting facility not be developed until such time as the facility ceases to operate, to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 17-240, November 8, 2017)

100. (Removed by By-law No. 19-053, March 27, 2019)

101. (Removed by By-law No. 19-053, March 27, 2019)

102. *Deleted.*

(By-law No. 21-062, April 28, 2021)

(By-law No. 22-037, February 23, 2022)

103. Notwithstanding 6.2 of this By-law, within the lands zoned Downtown Prime Retail Street (D2, 626) Zone, on Map 910, 911, 952 and 953 of Schedule A - Zoning Maps, and described as 43 - 51 King Street East, and 60 King William Street (Hamilton), the H Symbol applicable to the lands referred to in Section 1 of this By-law shall prohibit development of the lands and shall be removed condition upon:

(a) the applicant submitting a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment and Climate Change (MOECC). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECC, and submission of the City of Hamilton's current RSC administration fee.

(b) that the Owner purchase the alleyway required to implement the proposed development and provide confirmation that the abutting

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

landowners have been granted easements over the alleyway to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 18-011, January 24, 2017)

104. Notwithstanding Section 9.11 of this By-law, within the lands zoned Airport Prestige Business (M11, 697, H104) Zone identified on Maps 1386, 1387, 1437, and 1438 of Schedule "A" and described as 70 Garner Road East, the (H104) symbol may be removed by further amendment to this By-law at such time as the following conditions have been satisfied:

- i) The applicant completes an updated Functional Servicing Report (FSR) with Storm Water Management, to the satisfaction of the Manager of Development Approvals which outlines:
 - o Pre and post development conditions;
 - o Low impact developments (LID's);
 - o Drainage Area Plan which also includes external drainage areas;
 - o On site grading control;
 - o Self-contained drainage control of the subject property;
 - o Stormwater quality and quantity control to pre-development conditions; and,
 - o A suitable storm outlet.
- ii) The applicant provides a professional Legal opinion on the riparian rights for the drainage outlet through the culvert on private property. The opinion must conclude that the owner has rights to use the private culvert as a formal outlet for the development, in accordance with common drainage law / *Drainage Act*, to the satisfaction of the Manager of Development Approvals.
- iii) The applicant addresses comments from the Development Engineering Section, outlined in the memorandum dated November 17, 2017, to the satisfaction of the Manager of Development Approvals.
- iv) The applicant completes a Transportation Impact Study to the satisfaction of the Manager of Transportation Planning.

(By-law No. 18-223, August 17, 2018)

SCHEDULE "D": HOLDING PROVISIONS**ZONING BY-LAW**

105. Notwithstanding Section 6.1 and Schedule "C" – Special Exceptions, of this By-law, on those lands zoned Downtown Central Business District (D1, 701, H17, H105) Zone, on Map 953 of Schedule "A" – Zoning Maps, described as 71 Rebecca Street, no development shall be permitted until:

- i) The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MOECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton's current RSC administration fee.

(By-law No. 18-293, September 26, 2018)

(By-law No. 22-084, April 13, 2022)

106. For the lands zoned Mixed Use – Medium Density (C5, 700) Zone on Map 482 of Schedule "A" - Zoning Maps, and described as 5 Hamilton Street North, the (H106) symbol may be removed by further amendment to this By-law at such time as the following condition has been satisfied:

- i) That an updated Traffic Impact Study is submitted, approved, and implemented to the satisfaction of the Manager, Transportation Planning, Planning and Economic Development.

(By-law No. 18-261, September 12, 2018)

108. Notwithstanding Section 8.2 of this By-law, within lands zoned Community Institutional (I2, 446) Zone on Map 820 on Schedule "A" – Zoning Maps, and described as 211 York Road (Dundas), no development shall be permitted until such time as:

- i) The Owner submits and receives approval of a revised fire flow calculation based on the detailed building design to demonstrate that the existing watermains can provide for sufficient flows for firefighting for the future development on the site all to the satisfaction of the Manager of Engineering Approvals.

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(By-law No. 18-332, December 19, 2018)

110. Notwithstanding Subsection 10.5a and Special Exception 711 on those lands zoned Mixed Use Medium Density – Pedestrian Focus (C5a, 711) Zone, Modified, identified on Map 1934 of Schedule "A" – Zoning Maps and described as 3079 Binbrook Road, no development shall be permitted until such time as:

- i) The necessary upgrades to the Binbrook Sanitary Sewer Pumping Station are completed to the satisfaction of the Senior Director of Growth Management.
- ii) Notwithstanding Clause i) herein, the "H" Symbol shall not apply to a Personal Service use having a maximum Gross Floor Area of 675 square metres.

(By-law No. 19-062, March 27, 2019)

111. Notwithstanding Section 12.2 and within the lands zoned Rural (A2, 691) Zone of this By-law, identified on Maps RU25 and RU26 on Schedule "A" – Zoning Maps, and described as 1649 Highway No.6 North, a Cannabis Growing and Harvesting Facility shall not be permitted until such time as:

- i) An Odour Impact Assessment and Light Impact Assessment has been submitted and approved, to the satisfaction of the Director of Planning and Chief Planner.

(By-law No.19-130, May 22, 2019)

112. Notwithstanding Section 10.6 and Special Exception 301 on those lands zoned District Commercial (C6) Zone, Modified, identified on Map 1259 of Schedule "A" – Zoning Maps, and described as 1310 South Service Road, no development shall be permitted until such time as:

- i) Submission and approval of Urban Design Guidelines, to the satisfaction of the Director of Planning;
- ii) Completion of the Stoney Creek Transit Hub Feasibility Study, to the satisfaction of the Director of Strategic and Environmental Planning;

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- iii) Completion and implementation of a stormwater management study detailing requirements for quality and quantity control in accordance with the SCUBE Subwatershed Study and Parcel A and B Master Drainage Plan, to the satisfaction of the Directors of Development Engineering, and Strategic and Environmental Planning, and the Ontario Ministry of Transportation;
- iv) Approval and implementation of the Traffic Impact Study submitted by Delcan, dated April 2009, by the Manager of Traffic Engineering and Operations, Public Works Department, and the Ontario Ministry of Transportation;
- v) That the owner/applicant shall submit a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee;
- vi) That Sustainability Design Elements/Guidelines be prepared, submitted, and agreements implemented, to the satisfaction of Director of Planning; and,
- vii) That the owner/applicant shall conduct an archaeological assessment of the entire development property and mitigate, through preservation and resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, or soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

(By-law No. 19-062, March 27, 2019)

113. Notwithstanding Section 10.6 and Special Exception 728 on those lands zoned District Commercial (C6) Zone, Modified, identified on Map 1912 of Schedule "A" – Zoning Maps, and described as 2431 Regional Road 56 and 2365 Regional Road 56, no development shall be permitted until such time as:

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- ii) The lands are assembled and comprehensively planned and a site plan control application has been approved for the assembled properties, which ensures that the lands are comprehensively developed with the lands adjacent to the south to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 19-208, September 11, 2019)

116. Notwithstanding Section 6.2 of this By-law, within lands zoned Downtown Mixed Use – Pedestrian Focus (D2, 731) Zone on Map No. 952 on Schedule "A" – Zoning Maps, and described as 206 and 208 King Street West, Hamilton, no development shall be permitted until such time as:

- a. The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MECP). The RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MECP, and submission of the City of Hamilton's current RSC administration fee.
- b. A Documentation and Salvage Report in accordance with the City's Guidelines for Documentation and Salvage Reports be submitted to the satisfaction of the Manager of Development Planning, Heritage and Design prior to any demolition. Furthermore, a copy of this report should be submitted to the Hamilton Public Library.
- c. An updated Pedestrian Wind Study has been submitted and implemented to the satisfaction of the Director of Planning and Chief Planner.

118. Notwithstanding Section 10.5 of this By-law, within lands zoned Mixed Use Medium Density (C5, 739) Zone on Map No. 993 on Schedule "A" – Zoning Maps, and described as 211 and 225 John Street South and 78 Young Street, no development shall be permitted until such time as:

- 1) The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record

of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MOECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton's current RSC administration fee.

- 2) That the Owner submits and receives approval of a Documentation and Salvage Report for the existing buildings at 211 John Street South and 78 Young Street and implements the strategy of the Documentation and Salvage Report in accordance with the City of Hamilton Documentation and Salvage Report guidelines to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 21-038, March 21, 2021)

119. Notwithstanding Section 12.3 of this By-law, within lands zoned Settlement Residential (S1, 738) Zone, identified on Map Nos. 1022 and 1068 of Schedule A – Zoning Maps, and described as 1031 Highway No. 52 North, a Single Detached Dwelling or a Residential Care Facility shall not be permitted until such time as:

- i) The applicant/owner enters into a ground water monitoring agreement with the City of Hamilton to the satisfaction of the Director of Hamilton Water to support the construction of a single detached dwelling or residential care facility on the lands identified as Part 3 through Consent application AN/B-18:12; executes the terms of the ground water monitoring agreement, with monitoring occurring on the single detached dwellings or residential care facilities constructed on both Part 1 and Part 2 identified through Consent application AN/B-18:12, with monitoring beginning on the first date of occupancy for the single detached dwelling or residential care facility on the second lot to be developed and continuing for a minimum period of one year, to the satisfaction of the Director of Hamilton Water; and, provides satisfactory demonstration that long-term water takings are sustainable and that there are no significant impacts to ground water resources to the satisfaction of the Director of Hamilton Water.

(By-law No. 21-006, January 20, 2021)

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120. Notwithstanding Subsection 11.1 of this By-law, on those lands zoned Transit Oriented Corridor – Mixed Use – Medium Density (TOC1, 295, 741) Zone on Map Nos. 909 and 951 on Schedule "A" – Zoning Maps and described as 354 King Street West, Hamilton, development shall be restricted in accordance with the following:

a. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the Transit Oriented Corridor Mixed Use Medium Density (TOC1, 295) Zone.

b. Regulations

For such time as the Holding Provision is in place, these lands shall be subject to the regulations of the Transit Oriented Corridor Mixed Use Medium Density (TOC1) Zone except where in conflict with the following:

i) No development exceeding the maximum height of 36.5 metres.

c. Conditions for Holding Provision Removal

The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following condition have been satisfied:

i) The Owner submitting a Functional Servicing Report (FSR) that addresses such matters as, but not limited to, water servicing, required fire flow (RFF), wastewater servicing and stormwater management to the satisfaction of the Senior Director of Growth Management.

(By-law No. 21-081, May 12, 2021)

122. Notwithstanding the Temporary Use Provision 10 For Specific Lands as it applies to 574 Northcliffe Avenue. The permitted temporary dormitory use shall be limited to a maximum capacity of 96 occupants until such time as:

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- i. The applicant / proponent shall demonstrate and have attained all the necessary approvals to provide adequate services to increase the capacity beyond 96 students to accommodate a dormitory having a maximum capacity of 138 occupants to the satisfaction of the Niagara Escarpment Commission, Director, Development Planning and Ministry of Environment, Conservation and Parks."

(By-law 21-231, December 15, 2021)

- 122. Notwithstanding Subsection 10.5 and Special Exception Nos. 752 and 754 of this By-law, on those lands zoned Mixed Use Medium Density (C5, 752, 754, H122) Zone, identified on Map 517 of Schedule "A" – Zoning Maps and described as 3 and 4 Howard Boulevard, no development shall be permitted until such time as:

- i) The subject lands are developed in conjunction with adjacent lands abutting Dundas Street East, being 244 or 246 Dundas Street East adjacent to 3 Howard Boulevard and 250 Dundas Street East adjacent to 4 Howard Boulevard, to the satisfaction of the Director of Planning and Chief Planner, Planning and Economic Development Department.

(By-law 22-071, April 13, 2022)

- 123. Notwithstanding Section 9.5 and Special Exception No. 433 of this By-law, within the lands zoned General Industrial (M5, 433) Zone identified on Map nos. 749, 750, 751, 789, 790, 791, 830, 831, 832, 872, 873, 874 and 915 of Schedule "A" – Zoning Maps and described as 386 Wilcox Street, development shall be restricted in accordance with the following:

- a. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the (M5, 433) Zone;
- b. Regulations

For such time as the Holding Provision is in place, these lands shall be subject to the regulations of the M5, 433 Zone and the following regulations:

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- i. New development, including the establishment of uses permitted by the M5 Zone, and additions to existing buildings shall be permitted to a maximum of 1,000 square metres, in accordance with the provisions of Zoning By-law No. 05-200
 - ii. Issuance of Demolition Permits shall be permitted, to the satisfaction of the Chief Building Official;
 - iii. Relocation of existing buildings and structures on site shall be permitted provided there is no increase in Gross Floor Area with the exception to additions up to a maximum of 1,000 square metres as set out in a) above, to the satisfaction of the Chief Building Official; and,
 - iv. Site remediation and earthworks shall be permitted, to the satisfaction of the Director of Growth Management.
- c. Conditions for Holding Provision Removal

The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision, provided that the following conditions have been satisfied for such portion of the lands:

- i. The Owner submit a Concept Plan for the lands to the satisfaction of the Director of Planning. The Concept Plan shall include guidance on:
 - 1) Precincts and the distribution of land uses and buildings within each precinct;
 - 2) Road and rail network; and,
 - 3) Phasing.
- ii. The Owner shall provide a Master Servicing Plan, including a Transportation Master Plan, for the retained and severed portion of the lands to the satisfaction of the Director of Growth Management and Director of Transportation and Parking. Furthermore, the Owner shall develop a Terms of Reference to complete the Master Servicing Plan and Transportation Master

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Plan to the satisfaction of the Director of Growth Management and Director of Transportation and Parking;

- iii. The Owner enter into and register on title a Joint Use Agreement and/or Development Agreement (if required) to implement the Master Servicing Plan, to the satisfaction of the Director of Growth Management; and,
- iv. The Owner submits and receives approval of an Implementation Strategy to illustrate how the Concept Plan and Master Plan, may be implemented through additional Planning Act approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Control, to the satisfaction of the Director of Transportation and Parking and Director of Growth Management.

(By-law No. 22-069, April 13, 2022)

124. Notwithstanding Section 10.5a of this By-law, on those lands zoned Mixed Use Medium Density (C5a, 774, H124) Zone, identified on Map 911 of Schedule A - Zoning and described as 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, no development shall be permitted until such time as:

- i. The Owner submit and receive completion of a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MECP) or enters into a conditional building permit agreement with respect to completing a Record of Site Conditions. This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MECP, and submission of the City of Hamilton's current RSC administration fee;
- ii. The Owner agrees in a signed Site Plan Agreement to implement all required noise mitigation measures identified in Acoustical Study dated November 22, 2019 by RWDI and updated July 23, 2021, through the Site Plan Control Application, to the satisfaction of the Director of Planning and Chief Planner; and,

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- iii. The Owner agrees in a signed Site Plan Agreement, to provide notice to any subsequent owner, as well as any prospective purchasers or tenants that the dwellings are located in a Class 4 Area, and to agree to register this notice and any / all warning clauses on title, and include them in any purchase and sale and in any lease or rental agreement, to the satisfaction of the Director of Planning and Chief Planner.

(By-law No. 20-095, April 27, 2022)

- 125. Notwithstanding Section 12.3 of this By-law, within a portion of the lands zoned Settlement Residential (S1) Zone on Map No. RU106 of Schedule "A" – Zoning Maps, and described as 65 Oak Avenue, no development shall be permitted until such time as:
 - 1. The owner submits a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
 - 2. That the proponent shall carry out an archaeological assessment of the portion of the property conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport. Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

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3. The Applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division - Plan Examination Section).

(By-law No. 22-084, April 13, 2022)

127. Notwithstanding Section 8.2 of this By-law, within lands zoned Community Institutional (I2, 810), identified on Map No. 1183 on Schedule "A" – Zoning Maps, and described as 60 Caledon Avenue, Hamilton, no development shall be permitted until such time as:

1. That the owner submits and receives approval of an updated Functional Servicing Report and Stormwater Management Report and related drawings to demonstrate that adequate capacity exists in the existing municipal sanitary sewer downstream of the site to support the proposed development, to the satisfaction of the Director of Growth Management.

(By-law No. 22-176, July 08, 2022)

129. Notwithstanding Section 8.2 of this By-law, within lands zoned Community Institutional (I2, 816), identified on Maps 482 and 483 of Schedule "A" – Zoning Maps and described as 265 Mill Street, no development shall be permitted until such time as:

- a) The Holding Provision for the Community Institutional (I2, 816) Zone, Holding shall be removed when the following conditions have been met:
 1. A revised Transportation Impact Study (TIS) has been submitted and approved with any recommendations made in the revised TIS being implemented to the satisfaction of the Manager, Transportation planning.
 2. A Conservation Plan and Construction Monitoring Plan has been submitted and approved with any recommendations made in the Conservation Plan and Construction Monitoring Plan being implemented to the satisfaction of the Manager of Heritage and Urban Design.

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3. An updated Cultural Heritage Impact Assessment has been submitted and approved with any recommendations made in the Cultural Heritage Impact Assessment being implemented, to the satisfaction of the Director of Planning and Chief Planner

(By-law No. 22-187, August 12, 2022)

701. *Deleted.*

(By-law No. 20-030, February 12, 2020)

(By-law No. 22-084, April 13, 2022)