

*This By-law is a consolidated version and includes amendments made by the amending by-laws listed on the following page. This consolidation is prepared for purposes of convenience only and is not the official or legal version of the By-law. For accurate reference to the By-law, certified copies should be obtained through the City Clerk's Office.*

Consolidation Update: March 30, 2023

## **CITY OF HAMILTON**

### **By-law No. 15-176**

**TO CONSOLIDATE AND UPDATE SITE PLAN CONTROL BY-LAWS IN THE CITY OF HAMILTON**

**OFFICE CONSOLIDATION**

**TO CONSOLIDATE AND UPDATE SITE PLAN CONTROL BY-LAWS IN THE CITY OF HAMILTON**

**Consolidated By-law No. 15-176**

**Incorporating amendments made by:**

<b>By-law No.</b>	<b>Effective Date:</b>	
<b>18-104</b>	<b>April 25, 2018</b>	<u>Ancaster ER Zoned Lands</u>
<b>19-026</b>	<b>February 14, 2019</b>	Ancaster ER Zoned Lands
<b>21-069</b>	<b>May 12, 2021</b>	Ancaster ER Zoned Lands
<b>23-030</b>	<b>February 22, 2023</b>	Amendments to section 41 of the Planning Act

## **TO CONSOLIDATE AND UPDATE SITE PLAN CONTROL BY-LAWS IN THE CITY OF HAMILTON**

**WHEREAS**, under the provisions of Section 41 of the Planning Act, a Council of a Municipality may by by-law designate the whole or any part of the Municipality as a Site Plan Control Area:

**(23-030) AND WHEREAS** the Urban Hamilton Official Plan establishes the entire area within the City of Hamilton Planning Area as a proposed Site Plan Control Area, and contains policies related to Site Plan Control;

**(15-076) AND WHEREAS** the Rural Hamilton Official Plan and Urban Hamilton Official Plan in effect for the City of Hamilton that describe a proposed site plan control area and contain policies related to Site Plan Control;

**AND WHEREAS** under the provisions of Subsections 41(1.2), (1.3), and 41(4.1) of the Planning Act, as amended by Bill 23, More Homes Built Faster Act, 2022, modified the definition of development subject to Site Plan Control, and matters excluded from Site Plan Control;

**AND WHEREAS** it is desirable that the policies of the Official Plans be applied to the proposed site plan control area by way of a designation and implementation by-law;

**AND WHEREAS** the purpose of this by-law is to amend Site Plan Control By-law No. 15-176, as amended by By-law No. 18-104, By-law No. 19-026, and By-law No. 21-069, to implement Bill 23 changes;

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

**1.0** In this section:

- 1.1 “Abattoir” as defined in Zoning By-law No.05-200;
- 1.2 “Adjacent” means development located within 120 metres of a Core Area, except where bisected by a municipal road, or active rail corridor.
- 1.3 “Agricultural Brewery/Cidery/Winery” as defined in Zoning By-law No.05-200;
- 1.4 “Agricultural Processing Establishment – Stand Alone” as defined in Zoning By-law No.05-200;
- 1.5 “Agricultural Storage Establishment” as defined in Zoning By-law No.05-200;

- 1.6 "Agri-tourism" as defined in Zoning By-law No.05-200;
- 1.7 "City" means City of Hamilton.
- 1.8 "Core Area" means key natural heritage features, key hydrologic features, local natural areas, and their vegetation protection zones as indicated on Schedule "B" – Natural Heritage System of the Rural Hamilton Official Plan and Schedule "B" – Natural Heritage System of the Urban Hamilton Official Plan.
- 1.9 "Development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164(4) of the Municipal Act or of sites for the location of three or more mobile homes as defined in subsection 46(1) of the Planning Act.
- 1.10 "Farm Product Supply Establishment" as defined in Zoning By-law No.05-200;
- 1.11 "Kennel" as defined in Zoning By-law No.05-200;
- 1.12 "Land Titles Act" means the Land Titles Act, R.S.O. 1990, c. L. 5, as amended.
- 1.13 "Livestock Assembly Point" as defined in Zoning By-law No.05-200;
- 1.14 Medical Marihuana Growing and Harvesting Facility as defined in Zoning By-law No.05-200;
- 1.15 "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 1.16 "Ontario Heritage Act" means the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended.
- 1.17 "owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the Registry or Land Titles Office, and
- 1.18 "person" includes an owner.
- 1.19 "Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended.

- 1.20 "Registry Act" means the Registry Act, R.S.O. 1990, c. R.20, as amended.
- 1.21 " Dwelling Unit" means a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common interior hallway, vestibule or stairway.
- 1.22 "Lot" Shall means a parcel of land which can be legally conveyed pursuant to the provisions of the Planning Act.
- 2.0 The whole of the area within the corporate limits of the City of Hamilton is hereby designated as a Site Plan Control Area.
- 3.0 No person shall undertake any development in the site plan control area unless:
  - 3.1 Council of the City or persons to whom authority has been delegated has approved of the following:
    - 3.1.1 plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith, and of all facilities and works required as a condition of approval under Section 41 of the Planning Act, including commercial parking lots and sites for the location of three or more trailers and/or mobile homes, and facilities designated to have regard for accessibility for persons with disabilities, and showing the location of any *Core Area(s)*;
    - 3.1.2 drawings showing plan, elevation and cross-section views for each building to be erected, which are sufficient to display:
      - 3.1.2.1 the massing and conceptual design of the proposed building;
      - 3.1.2.2 the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;
      - 3.1.2.3 the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings;

- 3.1.2.4 matters relating to the appearance of the elements, facilities, and works on the land to the extent that the appearance impacts matters of health, safety, accessibility sustainable design or the protection of adjoining lands;
  - 3.1.2.5 the sustainable design elements on any adjoining highway under the City's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities; and,
  - 3.1.2.6 facilities designed to have regard for accessibility for persons with disabilities, but which exclude matters relating to interior design, the layout of interior areas, other than the interior walkways, stairs, elevators and escalators referred to in Clause 3.1.2.3, and the manner of construction and standards for construction.
- 3.2 Prior to the submission of any application for approval of development within the site plan control area, the owner formally consults with Council of the City or persons to whom authority has been delegated, for the purpose of identifying the need for and scope of any other information and materials considered necessary by the City and other affected agencies to allow full consideration of the development application.
  - 3.2.1 Notwithstanding Subsection 3.2 of this By-law, this requirement may be waived where the Council of the City or persons to whom authority has been delegated determines in his or her discretion that no reasonable purpose would be served by such a consultation due to the nature of the application."
- 4.0 As a condition of approval of the plans and drawings referred to in Subsection 3.1, the City may require the owner to enter into an agreement or undertaking with the City imposing any conditions permitted by Section 41 of the Planning Act.
- 5.0 Notice of any agreement or undertaking entered into under clause 4.0 above may be registered against the land to which it applies and the municipality may enforce the provisions thereof against the owner and, subject to the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.
- 6.0 Where the owner is required by this by-law or by any agreement or undertaking entered into pursuant hereto to do or ensure that any matter or

thing be done and such person defaults in doing such matter or thing, the same may be done by the City and the expense of so doing may be recovered by action or in like manner as municipal taxes.

- 7.0 No building permit or permits shall be issued until the Owner has received approval from the City pursuant to Section 41 of the Planning Act and this By-law.
- 8.0 Subject to Section 9.0 below, the provisions of this by-law do not apply to:
  - 8.1 any residential development of a lot which contains no more than ten dwelling units, and any buildings accessory thereto;
  - 8.2 any street townhouse building within a registered plan of subdivision for which the subdivision agreement is in full force and effect; and
  - 8.3 any agricultural building or structure.
- 9.0. Notwithstanding Section 8.2 and 8.3 above, the provisions of this by-law shall apply to the following:
  - 9.1 any buildings or structures, including accessory buildings and structures, decks, and additions to existing buildings, situated Adjacent to or within a Core Area(s), except for a street townhouse development consisting of more than ten street townhouse dwellings on a lot within a plan of subdivision or plan of condominium draft approved after January 1, 2013,
  - 9.2 any building or structure that requires the use of a septic tank and is located in Vulnerable Area 1 for Source Protection, as described in the City's Official Plans and Zoning By-law No. 05-200.
  - 9.3 commercial and agricultural greenhouses, including structures used for aquaponics or hydroponics or similar buildings and structures;
  - 9.4 aquaponics facility and medical marihuana growing and harvesting facility and buildings and structures;
  - 9.5 mushroom operation buildings and structures;
  - 9.6 kennel buildings and structures;
  - 9.7 agri-tourism buildings and structures with a gross floor area greater than 500 square metres;
  - 9.8 Agricultural Brewery/Cidery/Winery buildings and structures;

- 9.9 the following Agricultural-Related commercial or industrial uses, and buildings and structures, provided they are not located on the same lot as an agricultural use: Abattoir; Agricultural Processing Establishment – Stand Alone; Agricultural Storage Establishment; Farm Product Supply Establishment; and, Livestock Assembly Point;
- 10.0 The Mayor and the Clerk, or delegate, as the case may be, are hereby authorized to execute any agreement or undertaking prepared pursuant to Section 4.0 of this by-law and signed by the owner or developer of the affected land, provided that Council or persons with delegated authority have approved the plans and drawings required to be submitted under Section 3.0 of this by-law.

**PASSED** this 14<sup>th</sup> day of August, 2015.