

Authority: Item 5, Planning Committee Report 24-015 (PED24175)
CM: October 23, 2024 Ward: City Wide
Written approval for this by-law was given by Mayoral Decision MDE-2024 21
Dated October 23, 2024

Bill No. 186

CITY OF HAMILTON

BY-LAW NO. 24-186

To Repeal and Replace By-law No. 15-176, as amended by By-law Nos. 18-104, 19-026, 21-069 and 23-030, being the Consolidated Site Plan Control By-laws for 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;

AND WHEREAS the Rural and Urban Hamilton Official Plans establish the entire area within the City of Hamilton Planning Area as a proposed Site Plan Control Area, and contain policies related to 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 repeal and replace the Consolidated Site Plan Control By-laws for the City of Hamilton to allow for minor housekeeping and technical amendments and to implement other changes as required and allowed for by Bill 185, *Cutting Red Tape to Build More Homes Act*, 2024.

NOW THEREFORE the Council of the City of Hamilton repeals By-law No. 15-176, as amended by By-law Nos. 18-104, 19-026, 21-069 and 23-030 and 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 “Cannabis Growing and Harvesting Facility” as defined in Zoning By-law No. 05-200;
- 1.8 "City" means City of Hamilton;
- 1.9 “Conditional Site Plan Approval” means approval of a Site Plan Control Application subject to conditions that must be addressed to the satisfaction of the Chief Planner or their designate by way of a formal Conditional Approval Letter being issued. This approval may be structured to allow site works and/or Conditional Building Permits and/or partial building permits (e.g. Foundation Permit) to commence once certain conditions are cleared and a letter is issued, and it includes the approval of drawings, plans and studies that form the basis of the approval.
- 1.10 “Core Area” means key natural features, as identified on Schedule “B” – Natural Heritage System of the Rural Hamilton Official Plan and Schedule “B” – Natural Heritage System of the Urban Hamilton Official Plan;
- 1.11 "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*.
- 1.12 “Dwelling Unit” as defined in Zoning By-law No. 05-200;
- 1.13 “Farm Product Supply Establishment” as defined in Zoning By-law No.05-200;
- 1.14 “Final Site Plan Approval” means all conditions of the “Conditional Site Plan Approval” required prior to the issuance of all building permits have been satisfied. It includes approval of any drawings, plans and studies required to be updated and/or provided as a condition of approval. Final Site Plan Approval is subject to a letter being issued by the Chief Planner or their designate.
- 1.15 “Kennel” as defined in Zoning By-law No.05-200;
- 1.16 “Land Titles Act” means the *Land Titles Act*, R.S.O. 1990, c. L. 5, as amended;
- 1.17 “Livestock Assembly Point” as defined in Zoning By-law No.05-200;
- 1.18 “Lot” Shall means a parcel of land which can be legally conveyed pursuant to the provisions of the *Planning Act*;

- 1.19 "Municipal Act" means the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended;
 - 1.20 "Ontario Heritage Act" means the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended;
 - 1.21 "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;
 - 1.22 "person" includes an owner;
 - 1.23 "Planning Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - 1.24 "Registry Act" means the *Registry Act*, R.S.O. 1990, c. R.20, as amended;
 - 1.25 "Street Townhouse" means a building divided vertically into three or more dwelling units, by common walls which prevent internal access between units, with each townhouse designed to be on a separate lot having access to and frontage on a public street.
- 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 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 may formally consult with the Chief Planner or designate, 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 Site Plan Control 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 that meets the definition of development until the Owner has received Final Site Plan 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 residential units, and any buildings accessory thereto;
 - 8.2 the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007;
 - 8.3 any undertaking of a publicly funded Post Secondary Institution as per Section 62.0.2 (1), (2) and (3) of the *Planning Act* for lands that are not located in the Greenbelt;
 - 8.4 any street townhouse building within a registered plan of subdivision for which the subdivision agreement is in full force and effect;
 - 8.5 any agricultural building or structure;
- 9.0 Notwithstanding Sections 8.4 and 8.5 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 meets the definition of development and 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 cannabis growing and harvesting facility 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; and,
- 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 persons with delegated authority have approved the plans and drawings required to be submitted under Section 3.0 of this by-law.
- 11.0 The Conditional Site Plan Approval allows for minor changes to the approved site plan without requiring a new application to be filed.
- 11.1 Changes may be considered minor provided:
- 11.1.1 All service and/or driveway connection(s) to the municipal road/right-of-way remain the same;
 - 11.1.2 The layout of internal driveways/private roads do not change;
 - 11.1.3 The size and configuration of the property/lot does not change; and,
 - 11.1.4 The new development does not increase the overall building area by more than 5%.
- 11.2 The minor changes outlined in Section 11.1 are at the discretion of the Chief Planner or designate.

PASSED this 23rd day of October, 2024.

A. Horwath
Mayor

M. Trennum
City Clerk