

Item 9, Planning Committee  
Report: 14-014 (PED14161)  
**Authority:** CM: September 24, 2014

**Bill No. 276**

## **CITY OF HAMILTON**

### **BY-LAW NO. 14-276**

#### **To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting General Text Amendments for Community Gardens and Urban Farms**

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the Town of Flamborough" and is the successor to the former regional municipality, namely, The Regional Municipality of Hamilton-Wentworth;

**AND WHEREAS** the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5<sup>th</sup> day of November 1990, and approved by the Ontario Municipal Board on the 21<sup>st</sup> day of December, 1992;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item 9 of Report 14-014 of the Planning Committee, at its meeting held on the 24th day of September, 2014, recommended that Zoning By-law No. 90-145-Z (Flamborough) be amended as hereinafter provided;

**AND WHEREAS** the Urban Hamilton Official Plan was declared in force and effect on August 16, 2013 and is the Official Plan in effect for lands within the Urban Area of the City of Hamilton;

**AND WHEREAS** this By-law will be in conformity with the Urban Hamilton Official Plan of the City of Hamilton upon approval of Official Plan Amendment No. 31.

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

1. That **SECTION 3: DEFINITIONS** of By-law 90-145-Z is amended:

- (a) **Community Garden** shall mean land used for the growing and harvesting of plants, grains, vegetables, or fruits and provided the crops are for the sole use, donation or consumption by the individual or individuals growing or working the community garden. It shall not be considered as landscaped area, landscape open space, landscaped strip or landscaping.
  - (b) **Farm Produce/Product Stand** shall mean a building or structure used for the sale of fresh fruit, vegetables, grains and edible plants which are grown on an urban farm on a seasonal basis. Products derived from the urban farm produce may also be sold.
  - (c) **Urban Farm** shall mean land that is used for the growing and harvesting of edible plants, grains, vegetables or fruits and that the edible plants, grains, fruits and vegetables grown on-site may be sold on-site. It may include buildings and structures such as farm produce/product stand, greenhouses, hoop houses or cold frames. It shall not include a medical marijuana growing and harvesting facility, an aquaponics or aquaculture facility, livestock operation or a mushroom operation. It shall not be considered as landscaped area, landscape open space, landscaped strip or landscaping.
2. That **SECTION: 5 GENERAL PROVISIONS** be modified to include the following two new subsections as follows:
- (a) **5.37 URBAN FARM**
    - (a) Every urban farm in a residential zone, as a principle use, shall comply with the following:
      - i) Notwithstanding the minimum lot area of any zone, the minimum lot area shall be not less than 0.4 ha.
      - ii) Notwithstanding the size of the accessory structures of the particular zone in which the farm produce/product stand is located, only one farm produce/product stand shall be permitted and it shall not exceed a maximum area of 18.5 metres squared.
      - iii) Notwithstanding the maximum building size of any zone, the maximum gross floor area of all buildings and structures on the site associated with the urban farm use shall not exceed 280 metres squared, and no single building shall exceed 140 metres squared.
      - iv) Any building or structure associated with the urban farm use which is greater than 35 metres squared shall be considered as a principle building;

- v) Notwithstanding the height requirement of any zone in which the principle building is located, the maximum height of any building or structure associated with the urban farm use shall not exceed 10.5 metres.
  - vi) Any building or structure associated with the urban farm use which is 35 metres squared or less shall be considered as an accessory building or structure.
  - vii) Notwithstanding the setback requirements for a principle building or accessory structure in any zone, a greenhouse shall have a minimum 7.5 metre setback from any property line.
  - viii) All equipment shall be located within a building or structure.
- (b) Notwithstanding Section 5.37 a), an urban farm, as a principle use, may locate on a lot less than 0.4 ha in size provided that:
- i) there are no buildings or structures erected on the lot in which the urban farm is located.
  - ii) Notwithstanding the definition of urban farm, no retail sales shall be permitted on-site.
- (c) Every urban farm in a residential zone that locates on the same lot as another principle use, shall comply with the following:
- i) All equipment associated with an urban farm shall be located within a building or structure.
  - ii) All buildings and structures shall comply with the accessory structure regulations of the zone in which it is located.
  - iii) Notwithstanding, Section 5.2.2, where an urban farm is located on a roof top, the height of the accessory structure shall not exceed the maximum building height.
  - iv) Notwithstanding the definition of urban farm, no retail sales shall be permitted on-site.

**(b) 5.38 COMMUNITY GARDENS**

- (a) All buildings and structures shall comply with the accessory structure regulations of the zone in which it is located.

- (b) Notwithstanding, Section 5.2.2, where a community garden is located on a roof top, the height of the accessory structure shall not exceed the maximum building height.
3. That **SECTION 6 – Urban Residential (Single Detached) “R-1” Zone** is amended by modifying Section 6.1 – PERMITTED USES to add two new clauses as (b) and (c):
- (a) (b) Urban farm
  - (b) (c) Community garden
4. That **SECTION 6 – Urban Residential (Single Detached) “R-1” Zone** is amended by adding the following new subsections:

(a) **6.2.1 ZONE PROVISIONS FOR AN URBAN FARM**

- (a) The use shall comply with the provisions of Section 5.37 a), b) and c).
- (b) Notwithstanding Section 6.1(b), and in addition to the provisions of Section 5.37 (c), an urban farm shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	Franklin Street	Dundas Street	Griffin Street
2	Dundas Street (Hwy 5)	Mill Street	Hamilton Drive
3	Mill Street	Griffin Street	Cedar Street
4	Main Street	Barton Street	Cedar Street
5	Flamboro street	Barton Street	Dundas Street

(b) **6.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**

- (a) The use shall comply with the provisions of Section 5.38 a) and b).
- (b) Notwithstanding Section 6.1(c), and in addition to the provisions of Section 5.38 (b) , a community garden shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	Franklin Street	Dundas Street	Griffin Street
2	Dundas Street (Hwy 5)	Mill Street	Hamilton Drive
3	Mill Street	Griffin Street	Cedar Street
4	Main Street	Barton Street	Cedar Street
5	Flamboro street	Barton Street	Dundas Street

5. That **SECTION 9 – Urban Residential (Semi Detached and Link) “R4” Zone** is amended by modifying Section 9.1 – PERMITTED USES to add two new clauses as (c) and (d):
  - (a) (c) Urban farm;
  - (b) (d) Community garden
  
6. That **SECTION 9 – Urban Residential (Semi Detached and Link) “R4” Zone** is amended by adding the following new subsections:
  - (a) **9.2.1 ZONE PROVISIONS FOR AN URBAN FARM**
    - (a) The use shall comply with the provisions of Section 5.37 a), b) and c).
  - (b) **9.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**
    - (a) The use shall comply with the provisions of Section 5.38 a) and b).
  
7. That **SECTION 10 – Core Area Residential “R5” Zone** is amended by modifying Section 10.1 – PERMITTED USES to add two new clauses as (g) and (h):
  - (a) (g) Urban farm;
  - (b) (h) Community garden
  
8. That **SECTION 10 – Core Area Residential “R5” Zone** is amended by adding the following new subsections:
  - (a) **10.2.1 ZONE PROVISIONS FOR AN URBAN FARM**
    - (a) The use shall comply with the provisions of Section 5.37 a), b) and c).

(b) **10.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**

(a) The use shall comply with the provisions of Section 5.38 a) and b).

9. That **SECTION 11 – Medium Density Residential “R6” Zone** is amended by modifying Section 11.1 – PERMITTED USES to add two new clauses as (f) and (g):

(a) (f) Urban farm;

(b) (g) Community garden

10. That **SECTION 11 – Medium Density Residential “R6” Zone** is amended by adding the following new subsections:

(a) **11.2.1 ZONE PROVISIONS FOR AN URBAN FARM**

(a) The use shall comply with the provisions of Section 5.37 a), b) and c).

(b) Notwithstanding Section 11.1(f), and in addition to the provisions of Section 5.37 (c) , an urban farm shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	Franklin Street	Dundas Street	Griffin Street
2	Dundas Street (Hwy 5)	Mill Street	Hamilton Drive
3	Mill Street	Griffin Street	Cedar Street
4	Main Street	Barton Street	Cedar Street
5	Flamboro street	Barton Street	Dundas Street

(b) **11.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**

(a) The use shall comply with the provisions of Section 5.38 a) and b).

(b) Notwithstanding Section 11.1(g), and in addition to the provisions of Section 5.38 (b), a community garden farm shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	Franklin Street	Dundas Street	Griffin Street
2	Dundas Street (Hwy 5)	Mill Street	Hamilton Drive
3	Mill Street	Griffin Street	Cedar Street
4	Main Street	Barton Street	Cedar Street
5	Flamboro street	Barton Street	Dundas Street

11. That **SECTION 12 – Medium-High Density Residential “R6” Zone** is amended by modifying Section 12.1 – PERMITTED USES to add two new clauses as (b) and (c):

- (a) (b) Urban farm;
- (b) (c) Community garden

12. That **SECTION 12 – Medium-High Density Residential “R7” Zone** is amended by adding the following new subsections:

(a) **12.2.1 ZONE PROVISIONS FOR AN URBAN FARM**

- (a) The use shall comply with the provisions of Section 5.37 a), b) and c).
- (b) Notwithstanding Section 12.1(b), and in addition to the provisions of Section 5.37 (c), an urban farm shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	Franklin Street	Dundas Street	Griffin Street
2	Dundas Street (Hwy 5)	Mill Street	Hamilton Drive
3	Mill Street	Griffin Street	Cedar Street
4	Main Street	Barton Street	Cedar Street
5	Flamboro street	Barton Street	Dundas Street

(b) **12.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**

- (a) The use shall comply with the provisions of Section 5.38 a) and b).

- (b) Notwithstanding Section 12.1(c), and in addition to the provisions of Section 5.38 (b), a community garden shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	Franklin Street	Dundas Street	Griffin Street
2	Dundas Street (Hwy 5)	Mill Street	Hamilton Drive
3	Mill Street	Griffin Street	Cedar Street
4	Main Street	Barton Street	Cedar Street
5	Flamboro street	Barton Street	Dundas Street

13. That **SECTION 13 – High Density Residential “R8” Zone** is amended by modifying Section 13.1 – PERMITTED USES to add two new clauses as (b) and (c):
- (a) (b) Urban farm;
  - (b) (c) Community garden
14. That **SECTION 13 – High Density Residential “R8” Zone** is amended by adding the following new subsections:
- (a) **13.2.1 ZONE PROVISIONS FOR AN URBAN FARM**
    - (a) The use shall comply with the provisions of Section 5.37 a), b) and c).
  - (b) **13.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**
    - (a) The use shall comply with the provisions of Section 5.38 a) and b).
15. That **SECTION 15 – Urban Development “UD” Zone** is amended by modifying Section 15.1 – PERMITTED USES to add two new clauses as (b) and (c):
- (a) (b)Urban farm;
  - (b) (c)Community garden
16. That **SECTION 15 – Urban Development “UD” Zone** is amended by adding the following new subsections:
- (a) **15.2.1 ZONE PROVISIONS FOR AN URBAN FARM**



(a) The use shall comply with the provisions of Section 5.37 a), b) and c).

(b) **15.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**

(a) The use shall comply with the provisions of Section 5.38 a) and b).

17. That **SECTION 16 – Business District “BD” Zone** is amended by modifying Section 16.1 – PERMITTED USES to add two new clauses as (z) and (aa):

(a) (z) Urban farm;

(b) (aa) Community garden

18. That **SECTION 16 – Business District “BD” Zone** is amended by adding the following new subsections:

(a) **16.2.1 ZONE PROVISIONS FOR AN URBAN FARM**

(a) The use shall comply with the provisions of Section 5.37 a), b) and c).

(b) Notwithstanding Section 16.1(z), and in addition to the provisions of Section 5.37 (c), an urban farm shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	Franklin Street	Dundas Street	Griffin Street
2	Dundas Street (Hwy	Mill Street	Hamilton
3	Mill Street	Griffin Street	Cedar Street
4	Main Street	Barton Street	Cedar Street
5	Flamboro street	Barton Street	Dundas

(b) **16.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**

(a) The use shall comply with the provisions of Section 5.38 a) and b).

19. That **SECTION 17 – Urban Commercial “UC” Zone** is amended by modifying Section 17.1 – PERMITTED USES to add two new clauses as (x) and (y):

(a) (x) Urban farm;

- (b) (y) Community garden
20. That **SECTION 17 – Urban Commercial “UC” Zone** is amended by adding the following new subsections:
- (a) **17.2.1 ZONE PROVISIONS FOR AN URBAN FARM**
    - (a) The use shall comply with the provisions of Section 5.37 a), b) and c).
  - (b) **17.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**
    - (a) The use shall comply with the provisions of Section 5.38 a) and b).
21. That **SECTION 18 – Neighbourhood Commercial “NC” Zone** is amended by modifying Section 18.1 – PERMITTED USES to add two new clauses as (e) and (f):
- (a) (e) Urban farm;
  - (b) (f) Community garden
22. That **SECTION 18 – Neighbourhood Commercial “NC” Zone** is amended by adding the following new subsections:
- (a) **18.2.1 ZONE PROVISIONS FOR AN URBAN FARM**
    - (a) The use shall comply with the provisions of Section 5.37 a), b) and c).
  - (b) **18.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**
    - (a) The use shall comply with the provisions of Section 5.38 a) and b).
23. That **SECTION 20 – Highway Commercial “HC” Zone** is amended by modifying Section 20.1 – PERMITTED USES to add two new clauses as (m) and (n):
- (a) (m) Urban farm;
  - (b) (n) Community garden
24. That **SECTION 20 – Highway Commercial “HC” Zone** is amended by adding the following new subsections:

(a) **20.2.1 ZONE PROVISIONS FOR AN URBAN FARM**

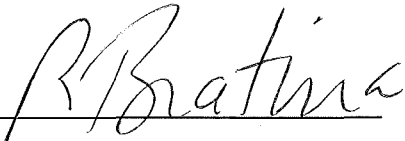
(a) The use shall comply with the provisions of Section 5.37 a), b) and c)..

(b) **20.2.2 ZONE PROVISIONS FOR A COMMUNITY GARDEN**

(a) The use shall comply with the provisions of Section 5.38 a) and b).

25. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

**PASSED** this 24<sup>th</sup> day of September, 2014.

  
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R. Bratina  
Mayor  
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R. Caterini  
City Clerk