

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

Bill No. 278

CITY OF HAMILTON

BY- LAW NO. 14-278

To Amend Zoning By-law No. 6593 (Hamilton) 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 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the City of Hamilton" 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 and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which By-law was approved by the Ontario Municipal Board by Order, dated the 7th day of December 1951, (File No. P.F.C. 3821);

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, recommended that Zoning By-law No. 6593 (Hamilton) 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 2: INTERPRETATION AND DEFINITIONS** No. 6593 is amended:

(a) by renumbering the definition of Farming from 2.(2)G to 2.(2)G(bi)

(b) by adding the following new definition (ai) to Subsection 2.(2)G:

“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.

(c) by adding the following new definition (ci) to Subsection 2.(2)G:

“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.

(d) by adding the following new definition (ii) to Subsection 2.(2)G:

“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 marihuana 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 7A: “AA” AGRICULTURAL DISTRICT** is amended by modifying **SECTION 7A.(1)** by adding two new uses as clauses (h) and (i):

(a) (h) urban farm in accordance with Section 18(17).

(b) (i) community garden in accordance with Section 18(18).

3. That **SECTION 8: “B” (Suburban Residential and Agriculture, Etc.) District** is amended by modifying **SECTION 8.1 (xiii) – Farming Uses** by adding two new uses as clauses (xiiia) and (xiiib):

- (a) (xiiia) urban farm in accordance with Section 18(17).
- (b) (xiiib) community garden in accordance with Section 18(18).

4. That **SECTION 9: “C” (Urban Protected Residential, Etc.) District** is amended by modifying **SECTION 9.1** by adding two new uses as clauses (via) and (vib) under the title of **FARMING USES**:

FARMING USES

(via) urban farm:

- a) in accordance with Section 18(17).
- b) notwithstanding Section 18(17)(i) and (ii) and in addition to the provisions of Section 18(17)(iii), an urban farm shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	Street	From	To
1	King Street West	Longwood Road	Sterling Street
2	James Street North	CN Railway Tracks	Cannon street
3	James Street South	Hunter Street East	Markland Avenue
4	Locke Street	Main Street West	Herkimer Street
5	Kenilworth Avenue North	Barton Street	Main Street East
6	Ottawa Street North	Barton Street	Main Street East
7	Barton Street East	Sherman Avenue North	Wellington Street North
8	Concession Street	East 33rd Street	East 15th Street
9	Upper James Street	Brucedale Avenue	Fennell Avenue
10	Upper Wellington Street	473 Upper Wellington Street on east side and 476-478 Upper Wellington on west side	Queensdale Avenue

(vib) community garden:

- a) in accordance with Section 18(18).
- b) notwithstanding section 18(18)(i) and in addition to the provisions of Section 18(18)(ii), a community garden shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	Street	From	To
1	King Street West	Longwood Road	Sterling Street
2	James Street North/South	CN Railway Tracks	Markland Avenue
3	Locke Street	Main Street West	Herkimer Street
4	Kenilworth Avenue North	Barton Street	Main Street East
5	Ottawa Street North	Barton Street	Main Street East
6	Barton Street East	Sherman Avenue North	Wellington Street North
7	Concession Street	East 33rd Street	East 15th Street
8	Upper James Street	Brucedale Avenue	Fennell Avenue
9	Upper Wellington Street	473 Upper Wellington Street on east side and 476-478 Upper Wellington on west side	Queensdale Avenue

5. That **SECTION 9A: “R-4” (Small Lot Single Family Dwelling) District** is amended by modifying **SECTION 9A.1** by adding two new uses as clauses (aaa)(1) and (aaa)(2) under the title **Farming Uses** :

(a) **(aaa) Farming Uses**

- (1) urban farm in accordance with Section 18(17).
- (2) community garden in accordance with Section 18(18).

6. That **SECTION 10D: “RT-10” (Townhouse) District** is amended by modifying **SECTION 10D.2** by adding two new uses as clauses (c)(1) and (c)(2) under the title **Farming Uses**:

(a) **(c) Farming Uses**

- (1) urban farm in accordance with Section 18(17).
- (2) community garden in accordance with Section 18(18).

7. That **SECTION 10E: “RT-10” (Townhouse-Maisonette) District** is amended by modifying **SECTION 10E.2** by adding two new uses as clauses (c)(1) and (c)(2) under the title **Farming Uses**:

(a) **(c) Farming Uses**

- (1) urban farm in accordance with Section 18(17).
- (2) community garden in accordance with Section 18(18).

8. That **SECTION 10F: “RT-10” (Street-Townhouse) District** is amended by modifying **SECTION 10F.2** by adding two new uses as clauses (c)(1) and (c)(2) under the title **Farming Uses**:

(a) **(c) Farming Uses**

- (1) urban farm in accordance with Section 18(17).
- (2) community garden in accordance with Section 18(18).

9. That **SECTION 14: “H” (Community Shopping and Commercial, etc) District** is amended by modifying **SECTION 14(1)** by adding two new uses as clauses (xxii) and (xxiii) under the title of **FARMING USES**:

FARMING USES

xxii) an urban farm:

- a) in accordance with Section 18(17).
- b) notwithstanding Section 18(17)(i) and (ii) and in addition to the provisions of Section 18(17)(iii), an urban farm shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	Street	From	To
1	King Street West	Longwood Road	Sterling Street

	Street	From	To
2	James Street North	CN Railway Tracks	Cannon street
3	James Street South	Hunter Street East	Markland Avenue
4	Locke Street	Main Street West	Herkimer Street
5	Kenilworth Avenue North	Barton Street	Main Street East
6	Ottawa Street North	Barton Street	Main Street East
7	Barton Street East	Sherman Avenue North	Wellington Street North
8	Concession Street	East 33rd Street	East 15th Street
9	Upper James Street	Brucedale Avenue	Fennell Avenue
10	Upper Wellington Street	473 Upper Wellington Street on east side and 476-478 Upper Wellington on west side	Queensdale Avenue

xxiii) a community garden:

- a) in accordance with Section 18(18);
- b) notwithstanding section 18(18)(i) and in addition to the provisions of Section 18(18)(ii), a community garden shall only be located in the rear yard or on a roof top of a principle building in the following areas:

	Street	From	To
1	King Street West	Longwood Road	Sterling Street
2	James Street North/South	CN Railway Tracks	Markland Avenue
3	Locke Street	Main Street West	Herkimer Street
4	Kenilworth Avenue North	Barton Street	Main Street East
5	Ottawa Street North	Barton Street	Main Street East
6	Barton Street East	Sherman Avenue	Wellington

	Street	From	To
		North	Street North
7	Concession Street	East 33rd Street	East 15th Street
8	Upper James Street	Brucedale Avenue	Fennell Avenue
9	Upper Wellington Street	473 Upper Wellington Street on east side and 476-478 Upper Wellington on west side	Queensdale Avenue

10. That **SECTION 14A: “HH” (Restricted Community Shopping and Commercial, etc) District** is amended by modifying **SECTION 14A.(1)** by adding two new uses as clauses (e) and (f):

(a) (e) urban farm in accordance with Section 18(17).

(b) (f) community garden in accordance with Section 18(18).

11. That **SECTION 15B: “CR” (Commercial–Residential) District** is amended by modifying **SECTION 15B.(1)** by adding two new uses as clauses (f)(1) and (f)(2) under the title of **FARMING USES::**

(a) **(f) Farming Uses**

1. Urban farm provided that:

a. it shall only be located in the rear yard or on a roof top of a principle building.

b. All equipment shall be located within a building or structure;

c. All buildings and structures shall comply with the accessory structure regulations of the District in which it is located.

d. Notwithstanding, Section 18.(4)(iii), where an urban farm is located on a roof top, the height of the accessory structure shall not exceed the maximum building height.

e Notwithstanding Subsection 2.(2)G(ii), no retail sales shall be permitted on-site.

2. Community garden provided that:

- a. it shall only be located in the rear yard or on a roof top of a principle building.
- b. All buildings and structures shall comply with the accessory structure regulations of the District in which the use is located.
- c. Notwithstanding, Section 18.(4)(iii), where an urban farm is located on a roof top, the height of the accessory structure shall not exceed the maximum building height.

12. That **SECTION 18: SUPPLEMENTARY REQUIREMENTS AND MODIFICATIONS** is amended by adding two new subsections as 17) and 18):

(a) **17) SPECIAL REQUIREMENTS FOR URBAN FARMS**

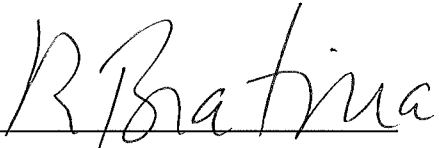
- (i) Every urban farm, as a principle use, in any District shall comply with the following regulations:
 - (a) Notwithstanding the minimum lot area of any zone, the minimum lot area shall be not less than 0.4 ha.
 - (b) Notwithstanding the size of the accessory structures of the particular zone in which 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.
 - (c) 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.
 - (d) Any building or structure associated with the urban farm use which is greater than 35 metres squared shall be considered as a principle building;
 - (e) 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.

- (f) Notwithstanding Section 4.8.1 f), 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.
- (g) 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.
- (h) All mechanical equipment shall be located within a building or structure.
- (ii) Notwithstanding Section 18(17)(i), an urban farm, as a principle use, may locate on a lot less than 0.4 ha in size provided that:
 - (a) there are no buildings or structures erected on the lot in which the urban farm is located.
 - (b) Notwithstanding Subsection 2.(2)G(ii), no retail sales shall be permitted on-site.
- (iii) Every urban farm in any District that locates on the same lot as another principle use, shall comply with the following regulations:
 - (a) All mechanical equipment shall be located within a building or structure;
 - (b) All buildings and structures shall comply with the accessory structure regulations of the zone in which it is located.
 - (c) Notwithstanding, Section 18.(4)(iii), where an urban farm is located on a roof top, the height of the accessory structure shall not exceed the maximum building height.
 - (d) Notwithstanding Subsection 2.(2)G(ii), no retail sales shall be permitted on-site.
- (b) **18) Community Gardens**
 - (i) All buildings and structures shall comply with the accessory structure regulations of the District in which the use is located.

- (ii) All structures that are located on a roof top shall not exceed the maximum building height of the District in which the use is located.

13. 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 24th day of September, 2014.



R. Bratina
Mayor



R. Caterini
City Clerk

CI 14-E