

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

**Bill No. 279**

## **CITY OF HAMILTON**

### **BY-LAW NO, 14-279**

#### **To Amend Zoning By-law No. 3692-92 (Stoney Creek) 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<sup>st</sup>, 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 City of Stoney Creek" 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By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;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. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

**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. 3692-92 (Stoney Creek), 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 **PART 2: DEFINITIONS** of By-law 3692-92 is amended:
  - (a) by adding the following new definitions:
    - i) **Community Garden**  
means 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.
    - ii) **Farm Produce/Product Stand**  
means 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.
    - iii) **Urban Farm**  
means 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 6: RESIDENTIAL ZONES** is amended by adding two new Subsections as follows:
  - (a) **6.1.20 Urban farm**
    - (a) An urban farm shall be permitted in any residential zone, in accordance with the regulations of Subsection 6.1.20 (b), Subsection 6.1.20 (c), Subsection 6.1.20 (d) or Subsection 6.1.20 (e).
    - (b) Every urban farm in a residential zone, as a principle use, shall comply with the following regulations:

- 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 mechanical equipment shall be located within a building or structure.
- (c) Notwithstanding Section 6.1.20 b), 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.

- (d) Every urban farm in a residential zone that locates on the same lot as another principle use, shall comply with the following regulations:
  - i) All mechanical equipment 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 the use is located.
  - iii) Notwithstanding, Section 6.1.4(a), 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.
- (e) Notwithstanding Section 6.1.20 (a), 6.1.20 (b) and 6.1.20 (c) and in addition to the provisions of Section 6.1.20 (d), an urban farm within any residential Zone 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	King Street	Faircourt Drive	Applewood Avenue

**(b) 6.1.21 Community Gardens**

- (a) A community garden shall be permitted in any residential zone, in accordance with the regulations of Subsection 6.1.21 (b).
- (b) All buildings and structures shall comply with the accessory structure regulations of the zone in which the use is located.
- (c) Notwithstanding, Section 6.1.4(a), 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 Sections 6.1.21(a), 6.1.21(b) and 6.1.21(c) and in addition to the provisions of Section 6.1.21(c), an urban farm within any residential Zone 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	King Street	Faircourt Drive	Applewood Avenue

3. That **SECTION 7: NEIGHBOURHOOD DEVELOPMENT “ND” ZONE** is amended by modifying **Subsection 7.1.2 - Permitted Uses for Each Lot** by adding two new uses as clauses (d) and (e)
- (a) (d) Urban Farm
- (b) (e) Community Garden
4. That **SECTION 7: NEIGHBOURHOOD DEVELOPMENT “ND” ZONE** is amended by adding two new Subsections:
- (a) **7.1.5 Zone Regulations for Uses Permitted in Section 7.1.2 (d)**
- The use shall comply with the provisions of Section 6.1.20.
- (b) **7.1.6 Zone Regulations for Uses Permitted in Section 7.1.2 (e)**
- The use shall comply with the provisions of Section 6.1.21.
5. That **SECTION 8: COMMERCIAL ZONES** is amended by adding two new Subsections as follows:
- (a) **8.1.8 Urban farm**
- (a) An urban farm shall be permitted in all commercial zones, Rural Commercial “RC” Zone, in accordance with the regulations of Subsection 8.1.8 (b), Subsection 8.1.8 (c), Subsection 8.1.8 (d) or Subsection 8.1.8 (e).
- (b) Every urban farm in a commercial zone, as a principle use, shall comply with the following regulations:

- 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 shall not exceed 280 metres squared, and no single building shall exceed 140 metres squared.
  - iv) Any building or structure 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 shall not exceed 10.5 metres.
  - vi) Any building or structure 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.
- (c) Notwithstanding Section 8.1.8 (b), 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.

- (d) Every urban farm in a commercial zone that locates on the same lot as another principle use, shall comply with the following regulations:
  - i) All equipment 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 the use is located.
  - iii) Notwithstanding, Section 6.1.4(a), 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.
- (e) Notwithstanding Sections 8.1.8 (a), 8.1.8 (b) and 8.1.8 (c) and in addition to the provisions of Section 8.1.8(d), an urban farm in any commercial zone 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	King Street	Faircourt Drive	Applewood Avenue

**(b) 8.1.9 Community Gardens**


- (a) A community garden shall be permitted in all commercial zones, except Rural Commercial “RC” Zone, in accordance with the regulations of Subsection 8.1.9 (b).
- (b) All buildings and structures shall comply with the accessory structure regulations of the zone in which it is located.
- (c) Notwithstanding, Section 6.1.4(a), where a community garden is located on a roof top, the height of the accessory structure shall not exceed the maximum building height.
- (d) Notwithstanding Section 8.1.9 (a) and in addition to the provisions of Section 8.1.9 (b) and 8.1.9 (c), a community garden in any commercial zone shall only be located in the

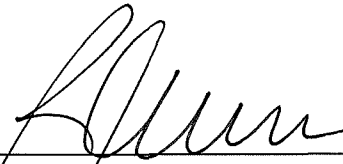
rear yard or on a roof top of a principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
1	King Street	Faircourt Drive	Applewood Avenue

6. 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  
CI 14-E

  
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R. Caterini  
City Clerk