

Authority: Item 5, Planning Committee
Report: 22-009 (PED20093(c))
CM: June 8, 2022
Ward: City Wide

Bill No. 135

CITY OF HAMILTON

BY-LAW NO. 22-135

To Amend Zoning By-law No. 90-145-Z (Flamborough) Respecting Modifications and Updates to Secondary Dwelling Unit and Secondary Dwelling Unit-Detached Regulations

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario 1999 Chap. 14, Schedule 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 of 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Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council or the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th of November 1990 and approved by the Ontario Municipal Board on the 21st of December, 1991;

AND WHEREAS Council, in approving Item 5 of Report 22-009 of the Planning Committee at its meeting held on the 8th day of June, 2022, recommended that Zoning By-law No. 90-145-Z (Flamborough) be amended as hereinafter provided;

AND WHEREAS this By-law conforms to the Urban Hamilton Official Plan;

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

1. That Section 3: Definitions be amended by adding the following definitions:

“SECONDARY DWELLING UNIT shall mean a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling.

SECONDARY DWELLING UNIT – DETACHED shall mean a separate and self-contained detached Dwelling Unit that is accessory to and located on the same lot as the principal dwelling.”

2. That Subsection 5.2.1 of Section 5: General Provisions be amended by adding the following Subsection:

“a) For the purposes of Section 5.43.2, a Secondary Dwelling Unit – Detached, shall not be considered an accessory building or structure.”

3. That Section 5: General Provisions be amended by deleting Section 5.43 in its entirety and replacing it with the following:

“5.43 SECONDARY DWELLING UNIT AND SECONDARY DWELLING UNIT - DETACHED”

- (a) Parking shall be provided in accordance with Section 5.21 of this By-law and the following:
- (i) No additional parking space shall be required for either a Secondary Dwelling Unit or a Secondary Dwelling Unit - Detached, provided the required parking spaces which existed on May 12, 2021 for the existing dwelling shall continue to be provided and maintained;
 - (ii) Notwithstanding Section 5.21.5 (a) as it regulates the location of required parking spaces, a maximum of two parking spaces for a Secondary Dwelling Unit and/or Secondary Dwelling Unit - Detached may be provided in the required Front Yard; and,
 - (iii) Notwithstanding Section 5.21.5 (a) as it regulates the location of required parking spaces, parking for a Secondary Dwelling Unit and/or Secondary Dwelling Unit – Detached may be provided in the required Exterior Side Yard and shall maintain a minimum of 50% landscaped area in the Exterior Side Yard.
- (b) Notwithstanding Section 1.2 or 1.5 of this By-law, the following provisions shall apply:
- i) A Building Permit application for a Secondary Dwelling Unit or Secondary Dwelling Unit - Detached, received by the City of Hamilton prior to the date By-law No. 22-135 was approved by Council, will be evaluated against the provisions of Section 5.43 of this By-law, in effect before By-law No. 22-135 came into effect.
 - (A) Notwithstanding Section 5.43 (b) i), if a Building Permit is not issued within 180 days of the effective date of this By-law, By-law No. 22-135 shall apply in all respects to the Building Permit in question.

- ii) A Building Permit may be issued to permit a Secondary Dwelling Unit or Secondary Dwelling Unit – Detached, in accordance with any Minor Variance that has been approved by the City of Hamilton or the Ontario Land Tribunal as it read on the day before By-law 22-135 was approved by Council, provided the Building Permit application complies with Section 5.43 of this By-law, in effect the day before By-law No. 22-135 came into effect.
- iii) For the purposes of determining zoning conformity, the following shall apply:
 - (A) This By-law is deemed to be modified to the extent necessary to permit a Secondary Dwelling Unit or Secondary Dwelling Unit – Detached that is constructed in accordance with Section 5.43 (b) i) or ii).
 - (B) Once a Building Permit has been issued under Section 5.43 (b) i) or ii), or more than 180 days has transpired as per Section 5.43(b) i) (A), the provisions of this By-law apply in all other respects.

5.43.1 SECONDARY DWELLING UNIT

- (a) For lands within a R1, R4, R5, R6 and UC Zone, a maximum of one Secondary Dwelling Unit shall be permitted within a Single Detached Dwelling, Semi-Detached Dwelling, Link or Street Townhouse Dwelling on a divided or undivided lot and shall not result in a change to the defined dwelling type on the lot.
- (b) All the regulations of this By-law applicable to the existing dwelling shall continue to apply unless specifically provided in Section 5.43.1.
- (c) There shall be no outside stairway above the first floor other than a required exterior exit.
- (d) maximum of one entrance shall be permitted on the front façade of a dwelling containing a Secondary Dwelling Unit.

5.43.2 SECONDARY DWELLING UNIT - DETACHED

- (a) For lands within a R1, R4, R5, R6 and UC Zone, a maximum of one Secondary Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling, a Semi-Detached Dwelling, Link or a Street Townhouse Dwelling.

- (b) In addition to Section 5.43.2 (a), a legally established accessory building existing as of May 12, 2021, may be converted to the one Secondary Dwelling Unit - Detached permitted on a lot containing an existing Single Detached Dwelling, Semi-Detached Dwelling, or Street Townhouse Dwelling subject to the following provision:
- (i) Any additions over 10% of the existing gross floor area of the legally established accessory building to create a Secondary Dwelling Unit – Detached shall be in accordance with the regulations of Section 5.43.2.
- (c) All the regulations of this By-law applicable to the existing dwelling shall continue to apply unless specifically provided in Section 5.43.2.
- (d) A Secondary Dwelling Unit – Detached shall only be permitted in a Rear and/or Interior Side Yard.
- (e) A minimum 1.2 metre setback shall be provided from the interior side lot line and rear lot line.
- (i) Notwithstanding Section 5.43.2 (e), an eave or a gutter may extend a maximum of 30 centimetres into a required minimum setback area.
 - (ii) In addition to Section 5.43.2 (e), a landscape strip is required to be provided within the required side yard adjacent to a Secondary Dwelling Unit – Detached and shall be limited to sod, ground cover, permeable pavers, or a planting strip.
- (f) A Secondary Dwelling Unit – Detached shall not be located closer to the flankage street than the principal dwelling.
- (g) An unobstructed path with a minimum 1.0 metre width and minimum 2.1 metre clearance in height from a street line to the entrance of the Secondary Dwelling Unit – Detached shall be provided and maintained.
- (h) The following building separation shall be provided:
- (i) Where a Secondary Dwelling Unit – Detached is located in the Rear Yard, a minimum distance of 7.5 metres shall be required between the rear wall of the principal dwelling and the Secondary Dwelling Unit – Detached.
 - (ii) Where a Secondary Dwelling Unit – Detached is located in an interior Side Yard, the following is required:

- (A) A minimum distance of 4.0 metres shall be provided between the side wall of the principal dwelling and a Secondary Dwelling Unit – Detached; and,
 - (B) A Secondary Dwelling Unit – Detached shall be set back a minimum 5.0 metres from the front façade of the principal dwelling.
- (i) A maximum height of 6.0 metres shall be permitted.
 - (i) Notwithstanding Section 5.43.2 (i), balconies and rooftop patios shall be prohibited above the first floor level.
 - (j) The maximum gross floor area shall not exceed the lesser of 75 square metres or the gross floor area of the principal dwelling.
 - (i) Notwithstanding Section 5.43.2 (j), the maximum combined lot coverage of all accessory buildings and the Secondary Dwelling Unit - Detached shall be 25%.
 - (ii) In addition to Section 5.43.2 (j), the ground floor area of a Secondary Dwelling Unit – Detached shall not exceed 70% of the ground floor area of the principal dwelling when the ground floor area of the principal dwelling is less than or equal to 105 square metres.
 - (k) A minimum landscaped area of 12.0 square metres shall be provided and maintained within the Rear Yard.”
4. 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*.
 5. That for the purposes of the Ontario Building Code, this By-law or any part of it is not made until it has come into force as provided by Section 34 of the *Planning Act*.
 6. That this By-law comes into force in accordance with Section 34 of the *Planning Act*.

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PASSED this 8th day of June, 2022

B. Johnson
Acting Mayor

A. Holland
City Clerk

CI 20-E