

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

**Bill No. 137**

## **CITY OF HAMILTON**

### **BY-LAW NO. 22-137**

#### **To Amend Former City of Hamilton Zoning By-law No. 6593, 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 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Plan of the former regional municipality continue in full force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;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 5 of Report 22-009 of the Planning Committee at its meeting held on the 8<sup>th</sup> day of June, 2022, which recommended that Zoning By-law No. 6593, be amended as hereinafter provided;

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan, Hamilton-Wentworth Regional Official Plan and City of Hamilton Official Plan;

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

1. That SECTION 18: SUPPLEMENTARY REQUIREMENTS AND MODIFICATIONS, be amended by adding the following clause to Subsection 18.(4) (i):

“A. For the purposes of Section 19.(1).2, a Secondary Dwelling Unit – Detached, shall not be considered an accessory building.”

2. That SECTION 19: RESIDENTIAL CONVERSION REQUIREMENTS be amended by deleting Section 19.(1) in its entirety and replacing it with the following regulations:

**“19.(1) Secondary Dwelling Unit and Secondary Dwelling Unit – Detached in all Residential Districts and “H” (Community Shopping and Commercial, etc.) District**

- (i) For the purposes of Section 19.(1), the following definitions shall apply:
  - (a) **Secondary Dwelling Unit** means a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling.
  - (b) **Secondary Dwelling Unit – Detached** means a separate and self-contained detached Dwelling Unit that is accessory to and located on the same lot as the principal dwelling.
- (ii) Parking shall be provided in accordance with Section 18(A) of this By-law and the following:
  - (a) 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;
  - (b) Notwithstanding Section 18A.(14a) and 18A.(14h) (i), 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,
  - (c) In addition to Section 18A.(31), the surface of a parking space and access driveway may include permeable pavers.
- iii) For the purposes of Section 19.(1), the following provisions shall apply:
  - a) 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. 22-137 was approved by Council, will be evaluated against the provisions of Section 19.(1) of this By-law, in effect before By-law No. 22-137 came into effect.

- (1) Notwithstanding Section 19.(1) iii) a), if a Building Permit is not issued within 180 days of the effective date of this By-law, By-law No. 22-137 shall apply in all respects to the Building Permit in question.
- b) 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 22-137 was approved by Council, provided the Building Permit application complies with Section 19.(1) of this By-law, in effect the day before By-law No. 22-137 came into effect.
- c) For the purposes of determining zoning conformity, the following shall apply:
  - (1) 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 19.(1) iii) a) or b).
  - (2) Once a Building Permit has been issued under Section 19.(1) iii) a) or b), or more than 180 days has transpired as per Section 19.(1) iii) a) (1), the provisions of this By-law apply in all other respects.

#### **19.(1).1 Secondary Dwelling Unit**

- (i) A maximum of one Secondary Dwelling Unit shall be permitted within a Single Detached Dwelling, a Semi-Detached Dwelling, or a Street Townhouse Dwelling on a divided or undivided lot and shall not result in a change to the defined dwelling type on the lot.
- (ii) All the regulations of this By-law applicable to the existing dwelling shall continue to apply unless specifically provided in Section 19.(1).1.
- (iii) A Secondary Dwelling Unit shall contain a maximum of two bedrooms.
- (iv) There shall be no outside stairway above the first floor other than a required exterior exit.

- (v) A maximum of one entrance shall be permitted on the front façade of a dwelling containing a Secondary Dwelling Unit.
  - (a) Notwithstanding Section 19.(1).1 (v), one additional entrance may be located on the front façade of a dwelling for lots identified in Schedule “P” of Section 22.
- (vi) Notwithstanding Section 19.(1) of this By-law, a Building Permit for a Secondary Dwelling Unit may be issued in accordance with any minor variance, site specific zoning, site plan that has been approved or conditionally approved by the City of Hamilton or the Ontario Land Tribunal as it read on the day before By-law No. 21-076 was passed by Council, provided the Building Permit application complies with Zoning By-law No. 6593, as amended, that affected the lot before By-law No. 21-076 came into effect. For the purposes of determining zoning conformity, the following provisions shall apply:
  - (a) This By-law is deemed to be modified to the extent necessary to permit a building or structure that is erected in accordance with Section 19.(1).1 (vi); and,
  - (b) Once the permit or approval under Section 19.(1).1 (vi) has been granted, the provisions of this By-law apply in all other respects to the land in question.

#### **19.(1).2 Secondary Dwelling Unit – Detached**

- (i) A maximum of one Secondary Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling, a Semi-Detached Dwelling, or a Street Townhouse Dwelling.
- (ii) In addition to Section 19.(1).2 (i), 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:
  - (a) Any additions over 10% of the existing gross floor area of the legally established accessory building converted to a Secondary Dwelling Unit – Detached shall be in accordance with the regulations of Section 19.(1).2.

- (iii) All the regulations of this By-law applicable to the existing dwelling shall continue to apply unless specifically provided in Section 19.(1).2.
- (iv) A Secondary Dwelling Unit - Detached shall contain a maximum of two bedrooms
- (v) A Secondary Dwelling Unit – Detached shall only be permitted in a Rear and/or interior Side Yard.
  - (a) Notwithstanding any other provisions of this By-law, for the purposes of a Secondary Dwelling Unit - Detached on a Through Lot, the Rear Yard shall be the yard with the greatest distance from a street line.
- (vi) A minimum 1.2 metre setback shall be provided from the interior Side Lot Line and Rear Lot Line.
  - (a) Notwithstanding Section 19.(1).2 (vi), an eave or a gutter may extend a maximum of 30 centimetres into a required minimum setback.
  - (b) In addition to Section 19.(1).2 (vi), 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, and may include a visual barrier.
- (vii) A Secondary Dwelling Unit – Detached, shall not be located closer to the flankage street than the principal dwelling.
- (viii) 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.
- (ix) The following building separation shall be provided:
  - (a) 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.
  - (b) Where a Secondary Dwelling Unit – Detached is located in an Interior Side Yard, the following is required:

- (i) 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,
  - (ii) A Secondary Dwelling Unit – Detached shall be set back a minimum 5.0 metres from the front façade of the principal dwelling.
- (x) A maximum height of 6.0 metres shall be permitted.
- (a) Notwithstanding Section 19.(1).2 (x), balconies and rooftop patios shall be prohibited above the first floor level
- (xi) The maximum gross floor area shall not exceed the lesser of 75 square metres or the gross floor area of the principal dwelling.
- (a) Notwithstanding Section 19.(1).2 (xi), the maximum combined lot coverage of all accessory buildings and the Secondary Dwelling Unit - Detached shall be 25%.
  - (b) In addition to Section 19.(1).2 (xi), 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.
- (xii) A minimum landscaped area of 12.0 square metres shall be provided and maintained within the rear yard.”
3. That Section 22: Restricted Areas By-laws Repealed, is amended by repealing and replacing Schedule P identified in Schedule “A” to this By-law.
  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 if 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*.

To Amend Former City of Hamilton Zoning By-law No. 6593, Respecting Modifications and Updates to  
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**PASSED** this 8<sup>th</sup> day of June, 2022

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B. Johnson  
Acting Mayor

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A. Holland  
City Clerk

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