

Authority: Item 5, Planning Committee
Report: 22-009 (PED20093(c))
CM: June 8, 2022
Ward: City Wide
Bill No. 138

CITY OF HAMILTON

BY-LAW NO. 22-138

To Amend Zoning By-law No. 3692-92 (Stoney Creek) 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, 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 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By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;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 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. 3692-92 (Stoney Creek) 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 amends Zoning By-law No. 3692-92 (Stoney Creek) as follows:

1. That PART 2: DEFINITIONS be amended by adding the following definitions:

"Secondary Dwelling Unit

Means a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling.

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.”

2. That PART 4: GENERAL PROVISIONS FOR ALL ZONES, be amended by adding the following clause to Subsection 4.5.1:

“(a) For the purposes of Subsection 6.1.7.2, a Secondary Dwelling Unit – Detached shall not be considered an accessory building or structure.”
3. That PART 6: RESIDENTIAL ZONES, be amended by adding the following clause to Subsection 6.1.4:

“(e) For the purposes of Section 6.1.7.2, a Secondary Dwelling Unit – Detached, shall not be considered an accessory building or structure.”
4. That PART 6: RESIDENTIAL ZONES, be amended by deleting Section 6.1.7 in its entirety and replacing it with the following:

“6.1.7 Secondary Dwelling Unit and Secondary Dwelling Unit – Detached

- (a) Parking shall be provided in accordance with Section 4.10 and Section 6.1.8 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) 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) Parking for a Secondary Dwelling Unit and/or Secondary Dwelling Unit – Detached shall maintain a minimum of 50% landscaped area in the Flankage Yard.
- (b) Notwithstanding Section 4.1 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. 22-138 was approved by Council, will be evaluated against the provisions of Section 6.1.7 of this By-law, in effect before By-law No. 22-138 came into effect.

- (A) Notwithstanding Section 6.1.7 (b) i), if a Building Permit is not issued within 180 days of the effective date of this By-law, By-law No. 22-138 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 22-138 was approved by Council, provided the Building Permit application complies with Section 6.1.7 of this By-law, in effect the day before By-law No. 22-138 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 6.1.7 (b) i) or ii).
 - (B) Once a Building Permit has been issued under Section 6.1.7 (b) i) or ii), or more than 180 days has transpired as per Section 6.1.7 (b) i) (A), the provisions of this By-law apply in all other respects.

6.1.7.1 Secondary Dwelling Unit

- (a) For lands within a “R1”, “R2”, “R3”, “R4”, “R5”, “R6”, “RM1”, “RM2”, and “RM3” Zone, 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.
- (b) All the regulations of this By-law applicable to the existing dwelling shall continue to apply unless specifically provided in Section 6.1.7.1.

- (c) There shall be no outside stairway above the first floor other than a required exterior exit.
- (d) A maximum of one entrance shall be permitted on the front façade of a dwelling containing a Secondary Dwelling Unit.

6.1.7.2 Secondary Dwelling Unit – Detached

- (a) For lands within a “R1”, “R2”, “R3”, “R4”, “R5”, “R6”, “RM1”, “RM2”, and “RM3” Zone, 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.
- (b) In addition to Section 6.1.7.2 (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 converted to a Secondary Dwelling Unit – Detached shall be in accordance with the regulations of Section 6.1.7.2.
- (c) All the regulations of this By-law applicable to the existing dwelling shall continue to apply unless specifically provided in Section 6.1.7.2.
- (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 6.1.7.2 (e), an eave or a gutter may extend a maximum of 30 centimetres into a required minimum setback area.
 - ii) In addition to Section 6.1.7.2 (e), a landscaped 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, or permeable pavers, and may include a fence.

- (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.
 - (a) Notwithstanding Section 6.1.7.2 (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.
 - (a) Notwithstanding Section 6.1.7.2 (j), the maximum combined lot coverage of all accessory buildings and the Secondary Dwelling Unit - Detached shall be 25%.
 - (b) In addition to Section 6.1.7.2 (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.”

5. That SECTION 6: MULTIPLE RESIDENTIAL “RM1” ZONE, be amended as follows:

i) By modifying Section 6.8.2 (f) so that it reads “Conversions of greater than two, up to a maximum of 4 dwelling units per structure”.

ii) By deleting Section 6.8.3 (f), and replacing it with the following:

“6.8.3 (f) Conversions of greater than two, up to a maximum of 4 dwelling units.

No dwelling shall be converted except in accordance with the following:

1. That no outside stairway shall be used or erected except an unenclosed fire escape;
2. That the volume of the building or structure shall not be increased;
3. That such dwelling units are situated in a Multiple Residential "RM1" Zone and that all the applicable requirements of this By-law and of the zone in which such dwelling unit is situated shall be complied with;
4. That such building or structure was erected prior to January 1, 1941;
5. That in conjunction with Section 6.8.3 (i), no more than four dwelling units shall be permitted on a lot.
6. That one parking space shall be required for the fourth dwelling unit of a conversion, provided the required parking spaces which existed on XX, 2022 for the existing dwelling shall continue to be provided and maintained.

i) In addition to Section 6.8.3 (f) 6., on a lot containing a Secondary Dwelling Unit –

Detached, one parking space shall be required
for the third dwelling unit of a conversion.

7. A maximum of 2 parking spaces are permitted to be provided in the front yard.”

iii) That Section 6.8.3 (i), be deleted and replaced as follows:

“6.8.3 (i) Regulations for Secondary Dwelling Units and Secondary Dwelling Units - Detached

1. Secondary Dwelling Units and Secondary Dwelling Units – Detached are permitted in accordance with Section 6.1.7

- (i) In addition to the regulations of Section 6.1.7, one parking space shall be required for a Secondary Dwelling Unit – Detached if it constitutes the fourth dwelling unit on a lot.”

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*.
7. 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*.
8. That this By-law comes into force in accordance with Section 34 of the *Planning Act*.

PASSED this 8th day of June, 2022.

B. Johnson
Acting Mayor

A. Holland
City Clerk