

CITY OF HAMILTON**BY-LAW No. 05-200**

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of this By-law;

AND WHEREAS it is desired to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the said new comprehensive Zoning By-law will be enacted and come into force and effect in several stages;

AND WHEREAS this By-law is the first stage and is applicable to the Downtown area of the City, as hereinafter described and depicted;

AND WHEREAS this By-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982 as amended by Official Plan Amendment No. 200 as adopted by the City of Hamilton by By-law No. 05-153.

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

1.1 TITLE OF BY-LAW

By-law No. 05-200 shall be cited as the Zoning By-law of the City of Hamilton, and herein may be referenced as "this By-law".

1.2 EFFECTIVE DATE

This By-law No. 05-200 shall be deemed to have come into effect on the date of the passing thereof by the Council of the City of Hamilton, subject to Final Approval of Official Plan Amendment No. 200.

1.3 AREA TO WHICH BY-LAW APPLIES

The provisions of this By-law shall apply throughout the City to the extent of all lands contained within the limits of the zone boundaries, as shown on the Zoning Maps forming Schedule “A” of this By-law.

1.4 SCOPE OF BY-LAW

Within the area to which this By-law applies, no person shall erect, alter, enlarge or use, or permit to be erected, altered, enlarged or used, any building or structure in whole or in part, nor use any land in whole or in part, except in accordance with the provisions of this By-law.

(By-law 10-076, April 14, 2010)

1.5 VALIDITY

Should any section, cause or provision of this By-law including any notation on the Zoning Maps, be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the part so declared to be invalid.

1.6 COMPLIANCE WITH APPLICABLE LAW

Nothing in this By-law shall relieve any person from the obligation to comply with any applicable Federal or Provincial statute, regulation or By-law of the City in force from time to time, or the obligation to obtain any license, permit, authority or approval required under any By-law of the City.

1.7 REPEAL OF EXISTING BY-LAWS

All the provisions of By-law No. 6593 of the former City of Hamilton, and all of the provisions of By-law No. 87-57 of the former Town of Ancaster, and all of the provisions of By-law No. 3581-86 of the former Town of Dundas, and all of the provisions of By-law No. 90-145-Z of the former Town of Flamborough, and all of the provisions of By-law No. 3692-92 of the former City of Stoney Creek, and all of the provisions of By-law No. 464 of the former Township of Glanbrook, and all subsequent amendments to any of said By-laws referenced hereto, insofar as they affect those lands within the limits of the zone boundaries so indicated in Schedule “A” of this By-law, shall be and the same are hereby repealed.

1.8 ADMINISTRATION

This By-law shall be administered by the City's General Manager of Planning and Economic Development.

1.9 ENFORCEMENT AND PENALTIES

- a) This By-law shall be enforced by persons appointed by By-law of the City;
- b) Every person who uses any land or erects or uses any building in any manner contrary to any requirement of this By-law, or who permits such use or erection, or who violates any provision of this By-law or permits a violation, is guilty of an offence and on conviction pursuant to the Provincial Offences Act is liable;
 - i) On a first conviction to a fine of not more than \$25,000.00; and,
 - ii) On a subsequent conviction to a fine of not more than \$10,000.00 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted; and,
(By-law 10-076, April 14, 2010)
- c) Where a corporation is convicted under Section 1, Subsection 1.9 (b) of this By-law, the maximum penalty that may be imposed shall be:
 - i) On a first conviction a fine of not more than \$50,000.00; and,
 - ii) On a subsequent conviction a fine of not more than \$25,000.00 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted and not as provided for in Section 1, Subsection 1.9 (b) of this By-law.

1.10 REMEDIES

The contravention of any requirement of this By-law may be restrained by action of any ratepayer of the City pursuant to the provisions of the Municipal Act.

1.11 LEGAL NON-CONFORMING USES

No person shall use or permit the use of any land, building or structure or part thereof, or erect, repair, or alter or permit the erection, repairing or altering of any building or structure which is not in conformity with the provisions of this By-law, EXCEPT as follows:

- a) The erection or use for a purpose prohibited by the By-law of any building for which a permit is required by and issued under the Building Code Act, prior to the effective date of this By-law, so long as the building when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under the Building Code Act;
- b) Where a building permit has been lawfully issued for the construction of a building prior to the effective date of this By-law and where the yard requirements for said building are found to be in contravention by no more than 0.03 m, the non-conforming yard shall be deemed to conform with the requirements of this By-law;
- c) The repair or restoration of any existing building, or part thereof, to a safe condition provided that such repair or restoration will not increase the height, area or volume, or site coverage of such building and that the building continues to be used for the same purpose and in the same manner as it was used on the effective date of this By-law;
(By-law 10-076, April 14, 2010)
 - i) In addition to Section 1.11 c), the repair, restoration, or replacement of an existing porch, deck, balcony, unenclosed fire escape, or open stair of an existing Single Detached, Semi-Detached, or Duplex Dwelling shall be permitted, provided that such repair, restoration, or replacement will not increase the height, area or volume, or site coverage of such structure.
(By-law No. 22-084, April 13, 2022)
- d) Swimming pools, hot tubs, and accessory buildings, including but not limited to sheds, garages and gazebos on a lot containing a single detached dwelling or duplex dwelling which is prohibited by the applicable zoning by-law, but which was lawfully used as a single detached or duplex dwelling on the date of the passing of this By-law shall be permitted as follows:
 - i) the location and height complies with the applicable provisions of this By-law; and,

- ii) this exemption shall not apply to the Open Space and Parks Classification Zones; or,
(By-law No. 17-240, November 8, 2017)

- e) In accordance with Subsection 34(10) of the Planning Act, R.S.O., 1990 c.P. 13, as amended, the addition of any porch, deck, balcony, unclosed fire escape or open stair to a single detached or duplex dwelling which is prohibited by this By-law, but which was lawfully used as single detached or duplex dwelling on the date of the passing of the By-law, shall permitted as follows:
 - i) the location complies with applicable provisions of this By-law; and,
 - ii) this exception shall not apply to the Open Space and Parks Classification Zones.
(By-law No. 17-240, November 8, 2017)

1.12 TRANSITIONAL PROVISION

Notwithstanding Sections 1.4 and 1.7 of this By-law a building permit may be issued in accordance with the following provisions:

- a) Within the D1, D2, or D5 Zone, a building permit may be issued to permit the *erection* of a *building* or *structure* in accordance with any minor variance, site specific zoning, site plan, consent, plan of subdivision or plan of condominium that has been approved or conditionally approved by the City of Hamilton or the Local Planning Area Tribunal as it read on the day before By-law No. 18-114 was passed by Council, provided the Building Permit application complies with Zoning By-law 05-200, as amended, that affected the lot before By-law No. 18-114 came into effect. For the purposes of determining zoning conformity the following shall apply:
 - i) This By-law is deemed to be modified to the extent necessary to permit a *building* or *structure* that is *erected* in accordance with Subsection a) above.
 - ii) Once the permit or approval under Subsection a) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.
(By-law No. 18-114, May 9, 2018)

- b) Within the C1 to C7 Zones, a building permit may be issued to permit the erection of a building or structure in accordance with any minor variance, site specific zoning, site plan, consent, plan of subdivision or plan of condominium 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. 17-240 was passed by Council, provided the Building Permit Application complies with the Zoning By-law that affected the lot before By-law No. 17-240 came into effect. For the purposes of determining zoning conformity the following shall apply:
- i) This By-law is deemed to be modified to the extent necessary to permit a building or structure that is erected in accordance with Subsection b) above.
 - ii) Once the permit or approval under Subsection b) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.
(By-law No. 22-084, April 13, 2022)
- c) Within the R1 and R1a Zone, a building permit may be issued to permit the erection of a building or structure in accordance with any minor variance, site specific zoning, site plan, consent, plan of subdivision or plan of condominium 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. 22-197 was passed by Council, provided the Building Permit application complies with the Zoning By-law that affected the lot before By-law 22-197 came into effect. For the purposes of determine zoning conformity the following shall apply:
- i) This By-law is deemed to be modified to the extent necessary to permit a building or structure that is erected in accordance with Subsection c) above.
 - ii) Once the permit or approval under Subsection c) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.
(By-law No. 22-197, August 12, 2022)

PASSED and ENACTED this _____ day of _____, 2005.

MAYOR

CLERK

August 14, 2019

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