Unless specifically exempted or regulated elsewhere in this By-law, the following regulations shall apply to all lands covered by this By-law.

4.1 PROHIBITED USES

With respect to any lands to which this By-law applies, all uses are prohibited unless specifically permitted in this By-law.

4.2 HUMAN HABITATION NOT WITHIN MAIN BUILDINGS

No truck, bus, coach, street car body, railway car, major recreational equipment or other motor vehicle shall be used for human habitation whether or not the same is mounted on wheels or other forms of mounting or foundations, except for a mobile home where specifically permitted in this By-law.

4.3 FRONTAGE ON A STREET

a) No lot shall have built upon it a building for any purpose in any zone unless the lot abuts a street for a minimum of 4.5 metres. Provided, however, that where a lot is separated from a street by land owned by the City or the Province of Ontario which land is held by such public agency for future road widening purposes or as a 0.3 metre reserve, a building may be erected upon such lot if registered rights-of-way giving access to a street have been granted and such access scheme is part of a Development Agreement pursuant to the Planning Act.

b) Where a building or lot is legally tied to a common element condominium which has frontage on a common element road that provides direct access to a street and is registered under the Condominium Act, such driveway shall be deemed to also be a street for purposes of applying the provisions of this By-law.

i) Section 4.3 b) above shall not apply to a Street Townhouse Dwelling where, in such case, any townhouse unit must have individual frontage on a public street, pursuant to the definition of Street Townhouse Dwelling in Section 3 of this By-law; and,

ii) Section 4.3 b) above shall not apply to a Multiple Dwelling Townhouse comprising townhouse units on parcels of tied land where, insuch case, any common element condominium road or driveway upon which townhouse units front shall be deemed to be

a part of the lot, rather than a public street, pursuant to the definition of Lot in Section 3 of this By-law.
(By-law No. 21-189, October 13, 2021)
(By-law No. 25-075, April 16, 2025)

c) Nothing in this By-law shall prevent the erection, repair, restoration, or addition of a dwelling on an existing lot having access to a public road via a private road subject to the provisions of the Zone in which the lot is located. For the purposes of this Section, the front lot line shall be the lot line which divides the lot from the private road and all other lot lines shall correspond thereto.
(By-law No. 24-051, April 10, 2024)
(By-law No. 25-155, August 06, 2025)

4.4 PUBLIC USES PERMITTED IN ALL ZONES

Notwithstanding anything else in this By-law, a utility company, a communication company, the City or any of its local boards as defined in The Municipal Act, any communications or transportation system owned or operated by or for the City, and any agency of the Federal or Provincial Government, including Hydro One, may, for the purposes of the public service, use any land or erect or use any building in any zone subject to the use or building being in compliance with the most restrictive regulations contained in such zone for any use and the parking requirements of Section 5 of this By-law, for such use and subject to there being no outdoor storage of goods, materials or equipment in any yard abutting a Residential Zone or a Downtown D5 or Downtown D6 Zone or Settlement Residential (S1) Zone. Any buildings erected or used in a Residential Zone or a Downtown D5 or Downtown D6 Zone or Settlement Residential (S1) Zone under the provisions of this Section, shall be designed so as not to intrude into the residential character of the area. This exemption for use in any zone shall not apply to the Neighbourhood Park (P1) Zone, any use, land or building used by Hamilton Hydro, Hydro One or any communication company or utility company for executive or administrative offices, or retail purposes, or any land or building used by any local School Board, University or College.
(By-law No. 06-166, June 14, 2006; By-law No. 07-321, November 14, 2007; By-law No. 15-173, July 10, 2015)

4.5 NUMBER OF DWELLINGS PER LOT

a) Unless otherwise provided for in this By-law, in any zone where a Single Detached Dwelling, Semi-Detached Dwelling, Duplex Dwelling, Triplex Dwelling or Fourplex Dwelling is permitted, no more than one such dwelling shall be erected on a lot.
(By-law No. 25-075, April 16, 2025)

b) Notwithstanding a) above, on a lot against which a Part Lot Control Exemption By-law is registered, those parts shown on a deposited reference plan which are intended to constitute a future lot shall be deemed to be a lot for the purposes of this By-law, provided that such parts are in compliance with all applicable regulations of this By-law.

4.6 PERMITTED YARD ENCROACHMENTS

No part of any required yard shall be obstructed except as follows:

a) The usual projections of window sills, chimney breasts, belt courses,

cornices, eaves, troughs and other similar architectural features, ductwork, venting and other similar appurtenances may be permitted in any required yard, provided that no such feature shall project more than 0.6 metres into the required yard, or to a maximum of half the distance of the required yard, whichever is the lesser;
(By-law No. 16-265, October 12, 2016)
(By-law No. 18-219, August 17, 2018)

b) A fire escape or exterior staircase may encroach into a required side or rear yard to a maximum of 1.5 metres, or to a maximum of half the distance of the required yard, whichever is the lesser;
(By-law No. 18-219, August 17, 2018)

c) An unenclosed ramp for wheelchair access may encroach into any required yard to no maximum distance;

d) A porch, deck or canopy may encroach into any required yard to a maximum of 1.5 metres, or to a maximum of half the distance of the required yard, whichever is the lesser;
(By-law No. 11-276, November 16, 2011)
(By-law No. 18-219, August 17, 2018)

e) A balcony may encroach into any required yard to a maximum of 1.0 metres, except into a required side yard of not more than one-third of its width or 1.0 metres, whichever is the lesser; and,
(By-law No. 18-219, August 17, 2018)

f) A bay window or alcove, without foundation, may encroach into any required yard to a maximum of 0.6 metres, or half the distance of the required yard, whichever is the lesser. No such feature shall have a width greater than 3.0 metres. (By-law No. 08-227, September 24, 2008)
(By-law No. 18-219, August 17, 2018)

g) An existing building may encroach, or further encroach, into a required yard to a maximum of 0.15 metres for the purpose of recladding the building.
(By-law No. 19-062, March 27, 2019)

h) Notwithstanding Section 4.6 d), e), and f) as it applies to the required front yard, for lots identified on Figure 36 of Schedule "F" – Special Figures of this By-law, the encroachment of a feature shall in no cases result in a front yard of less than 0.5 metres.
(By-law No. 24-051, April 10, 2024)

i) Wall-mounted electric vehicle charging equipment may encroach into any required yard to a maximum of 0.3 metres.

(By-law No. 24-052, April 10, 2024)

4.7 REDUCTION OF YARDS FOR NON-CONFORMING LOTS

Where a lot was legally established prior to the effective date of this By-law without sufficient lot width or lot area to meet the minimum requirements of this By-law, a principal dwelling comprising up to three dwelling units, where permitted in the zone applied to the property, may be erected upon it subject to compliance with all other requirements of this By-law, provided however, that each side yard or flankage yard has a width of at least 10% of the width of the lot but in no case less than
0.9 metres, and that the rear yard has a depth of 25% the depth of the lot but in no case less than 3.0 metres.

(By-law No. 24-051, April 10, 2024)
(By-law No. 26-161, September 09, 2026)

4.8 ACCESSORY BUILDINGS IN ALL ZONES

An accessory building may only be erected or used in accordance with the following:

a) Unless otherwise provided for in this By-law, Accessory Buildings shall not be used as a Dwelling Unit.

(By-law No. 22-084, April 13, 2022)
(By-law No. 26-161, September 09, 2026)

b) Accessory Buildings shall not be permitted within a front or flankage yard.

c) Notwithstanding Subsection 4.8 b), a building used as a station for parking attendants or security personnel shall be permitted within a front or flankage yard.

d) Notwithstanding any other provisions in this By-law, where a zone contains a maximum setback requirement from a street line, the maximum setback requirement shall not apply to Accessory Buildings.

e) In the event of a conflict between regulations where an Accessory Building is provided for a mixed use building, the most restrictive regulations shall apply.

f) Except as permitted in Subsection 4.18 a), an Accessory Building shall

not be erected prior to the erection of the principal building or structure on the lot.

g) All Accessory Buildings shall have a maximum height of 4.5 metres.

h) Notwithstanding Subsection 4.6a), an eave or gutter of any Accessory Building may encroach into any required yard to a maximum of 0.45 metres.

i) Rooftop amenity area shall be prohibited on all Accessory Buildings.

j) Gazebos, pergolas, and carports shall be considered as Accessory Buildings, but shall not be subject to the Lot Coverage or Gross Floor Area requirements of the applicable zones in which they are located.

k) Children's play structures and sports bleachers shall not be considered Accessory Buildings and shall not be subject to the regulations of Subsections 4.8.1, 4.8.2, 4.8.3, 4.8.4 and 4.8.5 or the regulations of the zones in which they are located.

4.8.1 BUILDINGS ACCESSORY TO RESIDENTIAL USES

4.8.1.1 BUILDINGS ACCESSORY TO SINGLE DETACHED DWELLINGS, SEMIDETACHED DWELLINGS, DUPLEX DWELLINGS, TRIPLEX DWELLINGS, FOURPLEX DWELLINGS, AND STREET TOWNHOUSE DWELLINGS IN ALL ZONES (EXCEPT A1 AND A2 ZONES)

(By-law No. 24-051, April 10, 2024)

a) The maximum combined lot coverage of all Accessory Buildings shall not exceed 45 square metres or 7.5% of the lot area, whichever is the lesser.
(By-law No. 24-137, July 12, 2024)

b) An Additional Dwelling Unit – Detached shall not be considered as an Accessory Building.
(By-law No. 22-132, June 08, 2022)

c) All Accessory Buildings having a Gross Floor Area less than 18 square metres shall conform to the following regulations:

i)	Building Setback from a Rear Lot Line	Minimum 1.0 metre

ii)	Building Setback from a Side Lot Line	Minimum 1.0 metre
iii)	Building Setback from a Flankage Lot Line	1. Accessory Buildings shall conform to the regulations for the principal use. 2. Notwithstanding Subsection 4.8.1.1 c) iii), where a zone does not contain a Flankage Lot Line requirement, the minimum building setback shall be 1.2 metres.

d) All accessory buildings with a Gross Floor Area greater than or equal to 18 square metres shall conform to the following regulations:

i)	Building Setback from a Rear Lot Line	Minimum 1.2 metres
ii)	Building Setback from a Side Lot Line	Minimum 1.2 metres
iii)	Building Setback from Flankage Lot Line	1. Except as required in a Subsection 4.8.1.1 e), Accessory Buildings shall conform to the regulations for the principal use. 2. Notwithstanding Subsection 4.8.1.1 d) iii), where a zone does not contain a Flankage Lot Line requirement, the minimum building setback shall be 1.2 metres.

e) Where a vehicular entrance to an Accessory Building faces a street line, the vehicular entrance shall be setback a minimum of 6.0 metres from the street line.

4.8.1.2 BUILDINGS ACCESSORY TO SINGLE DETACHED DWELLINGS AND RESIDENTIAL CARE FACILITIES IN A1 AND A2 ZONES

a) Notwithstanding Subsection 4.8 g), all Accessory Buildings shall have a maximum height of 6.0 metres.

b) An Additional Dwelling Unit – Detached shall not be considered as an Accessory Building.

c) The aggregate Gross Floor Area of all Accessory Buildings shall not exceed 200 square metres, or 5% lot coverage, whichever is the lesser.

d) All buildings accessory to a Single Detached Dwelling shall have a minimum setback of 1.0 metre from a rear or side lot line.

e) In addition to Subsection 4.8 b) and notwithstanding Subsection 4.8.1.2 d), where a vehicular entrance to an Accessory Building faces a street line or where an access driveway leads to an Accessory Building which faces a street line, the Accessory Building shall be setback a minimum of 6.0 metres from the street line.

(By-law No. 26-161, September 09, 2026)

4.8.1.3 BUILDINGS ACCESSORY TO MULTIPLE DWELLINGS, MULTIPLE DWELLING TOWNHOUSES, RETIREMENT HOMES, LODGING HOUSES, AND RESIDENTIAL CARE FACILITIES IN ALL ZONES

(By-law No. 25-075, April 16, 2025)

a) All Accessory Buildings having a Gross Floor Area less than 18 square metres shall conform to the following regulations:

i)	Building Setback from a Rear Lot Line	Minimum 1.2 metres
ii)	Building Setback from a Side Lot Line	Minimum 1.2 metres
iii)	Building Setback from a	Accessory Buildings shall

Flankage Lot Line	conform to the regulations for the principal use.

b) In addition to Subsection 4.8 f), all Accessory Buildings having a Gross Floor Area greater than or equal to 18 square metres shall conform to the regulations for the principal use.

4.8.2 BUILDINGS ACCESSORY TO INSTITUTIONAL USES IN ALL ZONES

a) All Accessory Buildings having a Gross Floor Area less than or equal to 18 square metres shall conform to the following regulations:

i)	Building Setback from a Rear Lot Line	1. Minimum 0.0 metres where a rear lot line abuts a Laneway. 2. Minimum 0.6 metres where a rear lot line does not abut a Laneway.
ii)	Building Setback from a Side Lot Line	1. Minimum 0.0 metres where a side lot line abuts a Laneway. 2. Minimum 0.6 metres where a side lot line does not abut a Laneway. (By-law No. 21-189, October 13, 2021)
iii)	Building Setback from a Flankage Lot Line	Accessory Buildings shall conform to the regulations for the principal use. (By-law No. 24-137, July 12, 2024)

b) In addition to Subsection 4.8 f) and 4.8.2 a), all Accessory Buildings having a Gross Floor Area greater than 18 square metres shall conform to the regulations for the principal use.

4.8.3 BUILDINGS ACCESSORY TO COMMERCIAL USES IN ALL ZONES

a) All Accessory Buildings having a Gross Floor Area less than or equal to

18 square metres shall conform to the following regulations:

i)	Building Setback from a Rear Lot Line	1. Minimum 0.0 metres where a rear lot line abuts a Laneway. 2. Minimum 0.6 metres where a rear lot line does not abut a Laneway.
ii)	Building Setback from a Side Lot Line	1. Minimum 0.0 metres where a side lot line abuts a Laneway. 2. Minimum 0.6 metres where a side lot line does not abut a Laneway. (By-law No. 21-189, October 13, 2021)
iii)	Building Setback from a Flankage Lot Line	Accessory Buildings shall conform to the regulations for the principal use.

b) In addition to Subsection 4.8 f), all Accessory Buildings having a Gross Floor Area greater than 18 square metres shall conform to the regulations for the principal use.

4.8.4 BUILDINGS ACCESSORY TO INDUSTRIAL AND UTILITY USES IN ALL ZONES

a) All Accessory Buildings having a Gross Floor Area less than or equal to 18 square metres shall conform to the following regulations:

i)	Building Setback from a Rear Lot Line	1. Minimum 0.0 metres where a rear lot line abuts a Laneway. 2. Minimum 0.6 metres where a rear lot line does not abut a Laneway.

ii)	Building Setback from a Side Lot Line	1. Minimum 0.0 metres where a side lot line abuts a Laneway. 2. Minimum 0.6 metres where a side lot line does not abut a Laneway. (By-law No. 21-189, October 13, 2021)
iii)	Building Setback from a Flankage Lot Line	Accessory Buildings shall conform to the regulations for the principal use.

b) In addition to Subsection 4.8 f), all Accessory Buildings having a Gross Floor Area greater than 18 square metres shall conform to the regulations for the principal use.

4.8.5 BUILDINGS ACCESSORY TO AGRICULTURE, RURAL, EXISTING RURAL COMMERCIAL, AND EXISTING RURAL INDUSTRIAL USES

a) Buildings accessory to all uses except a Single Detached Dwelling and Residential Care Facility in an A1 or A2 Zone shall conform to the regulations for the principal use of the applicable A1 or A2 Zones.

b) Buildings accessory to all uses in an E1 or E2 Zone shall conform to the applicable principal zone regulations.
(By-law No. 21-070, May 12, 2021)

4.9 MECHANICAL AND UNITARY EQUIPMENT

Hot boxes, air conditioners and pumps (including heat pumps and swimming pool pumps) and other similar mechanical equipment shall be located only in accordance with the following regulations:

a) Within a required front yard, provided such equipment shall have a minimum setback of 3.0 metres from the street line, a minimum setback of 0.6 metres from a side lot line and is screened from the street by an enclosure or landscaping; and,

b) Within a required side yard or required rear yard provided such equipment has a minimum setback of 0.6 metres from the side lot line or rear lot line.

(By-law No. 06-324, October 25, 2006)
(By-law No. 11-276, November 16, 2011)
(By-law No. 21-189, October 13, 2021)

4.10 SATELLITE DISHES

Satellite dishes shall be permitted in all zones. Satellite dishes within a Residential Zone, Downtown D5 Zone, Downtown D6 Zone or Institutional Zone that are greater than 1.0 metre in diameter shall be subject to the following:
(By-law No. 07-101, March 28, 2007)

a) Only one such satellite shall be permitted on any lot;

b) Shall not be located in any front yard;

c) Shall not be located beyond the distance of any minimum side yard or minimum rear yard required by this By-law;

d) May be located on the roof-top of a multiple dwelling provided the satellite dish is less than 3.7 metres in diameter; and,

e) Shall be restricted to a maximum height of 4.5 metres measured from the base to the uppermost point of the satellite dish.

4.11 SWIMMING POOLS AND HOT TUBS/SPAS

An outdoor swimming pool or hot tub/spa may be located in any yard except the required front yard and shall be located a minimum of 1.25 metres from any lot line, measured from the water's edge to the lot line.

4.12 VACUUM CLAUSE

a) Downtown Zones

i) Notwithstanding any other provisions of this By-law, any lot within any Downtown Zones and the location thereon of any residential building or building accessory thereto, existing on the effective date of this By-law, shall be deemed to comply with the regulations for any required setbacks, front yard, side yard, rear yard, lot width and building height relative only to the use existing on the effective date of this By-law and subject to such existing use being permitted by this By-law;
(By-law No. 18-219, August 17, 2018)

ii) Nothing in Subsection a) (i) shall apply to any satellite dish, air-conditioning-unit, heat pump unit, swimming pool, hot tub/spa or to any fence in contravention of the City's Fence By-law and Swimming Pool Enclosure By-law;

iii) Notwithstanding any other provisions of this By-law, any lot within any Downtown Zones upon which a residential building exists on the effective date of this By-law, such lot shall be deemed to comply with the lot area regulation relative only to the use existing on the effective date of this By-law provided that:

1. Such existing use is permitted by this By-law; and.

2. The lot area is not less than 90% of that otherwise required by this By-law;

(By-law No. 18-219, August 17, 2018)

iv) Nothing in Subsection a) (iii) shall permit a reduction in a lot area from that existing on the effective date of this By-law, to a lot area which is less than that prescribed by the relevant minimum lot area regulation;

b) Notwithstanding any of the provisions of the Downtown Zones and Institutional Zones of this By-law, building heights existing on the effective date of this By-law shall be deemed to comply with the regulations for building heights and are permitted by this By-law.
(By-law No. 07-101, March 28, 2007)

c) Notwithstanding any other provisions of this By-law, any lot within the Industrial Zones of this By-law and the location thereon of any building or structure, existing on the effective date of this By-law, shall be deemed to comply with the regulations for any required setbacks, front yard, flankage yard, rear yard, lot width, lot area and building height and are permitted by this By-law.
(By-law No. 10-128, May 26, 2010)
(By-law No. 11-276, November 16, 2011)

d) Notwithstanding any other provisions of this By-law, any lot within the Rural Zones of this By-law, and the location thereon of any building or structure, existing on the effective date of this By-law, shall be deemed to comply with the regulations for any required setbacks, front yard, flankage yard,

rear yard, lot width, lot area, and building height and are permitted by this By-law.
(By-law No. 15-173, July 10, 2015)
(By-law No. 21-189, October 13, 2021)

e) Transit Oriented Corridor Zones

i) Notwithstanding any other provisions of this By-law, any lot within the Transit Oriented Corridor Zones of this By-law, and the location thereon of any building or structure, existing on the effective date of this By-law, shall be deemed to comply with the regulations for any required setbacks, front yard, flankage yard, rear yard, lot width, lot area, and building height and are permitted by this By-law.

ii) In addition to Subsection i), and notwithstanding Subsections 11.4.3 a) i), 11.4.3 d) i), and 11.4.3 g) ii) and iii), within the lands zoned Transit Oriented Corridor Mixed Use High Density (TOC4) Zone, an addition or alteration to an existing commercial building, to a maximum of 10% of the existing Gross Floor Area existing on the date of passing of this By-law, shall be permitted.
(By-law No. 18-032, February 14, 2018)

f) Commercial and Mixed Use Zones

i) Notwithstanding any other provisions of this By-law, any lot within the Commercial and Mixed Use Zones of this By-law and the location thereon of any building or structure, existing on the effective date of this By-law, shall be deemed to comply with the regulations for any required setbacks, front yard, façade building length, flankage yard, rear yard, lot width, lot area and building height and are permitted by this By-law.
(By-law No. 17-240, November 8, 2017)

ii) In addition to Section 4.12 f)i) and notwithstanding Sections 10.3.3 a)ii), 10.4.3 a)i), 10.5.3 a)ii) and 10.6.3 a)ii), Sections 10.4.3 d)i), 10.5.3 d)i), 10.5a.3 d)i) and Sections 10.3.3 i) ii) and iii), 10.5.3 g) ii) and iii), 10.5a.3 g) ii) and iii), and 10.6.3 g) ii) and iii), within the lands zoned, Community Commercial (C3) Zone, Mixed Use High Density (C4) Zone, Mixed Use Medium Density (C5) Zone, Mixed Use Medium Density – Pedestrian Focus (C5a) Zone, or District Commercial (C6) Zone, an addition or alteration to a

legally existing commercial building, to a maximum of 10% of the existing Gross Floor Area existing on the date of the passing of the By-law, shall be permitted.
(By-law No. 17-240-OLT-05, March 14, 2022)

iii) In addition to Section 4.12.f)ii), an addition or alteration to an existing building shall be permitted to replace the existing legally established parking spaces prior to the addition provided the minimum legally established parking requirements are exceeded.
(By-law No. 17-240, November 8, 2017)

g) Parking Space Size for All Zones

i) Notwithstanding any other provisions of this By-law, parking spaces located within any zone and approved after May 25, 2005 and prior to the effective date of this By-law shall be deemed to comply with the regulations for the length and width and are permitted by this By-law.
(By-law No. 17-240, November 8, 2017)

ii) Notwithstanding any other provisions of this By-law, parking spaces located within any D1, D2 or D5 Zone and approved or subject to a Formal Consultation request or Development Application after May 25, 2005 and prior to the effective date of the By-law No. 18-114, being the 9th day of May 2018, be recognized and deemed to comply with the Zoning By-law regulations in terms of length, width and are permitted by this By-law
(By-law No.18-114, May 09, 2018)

h) Notwithstanding Sections 1.4 and 1.7 of this By-law, a Building Permit for an Additional Dwelling Unit may be issued in accordance with any minor variance, site specific zoning, or site plan 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 21-071 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. 21- 071 came into effect. For the purposes of determining zoning conformity the following provisions 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 h) above.

ii) Once the permit or approval under Subsection h) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.

(By-law No. 21-071, May 12, 2021)
(By-law No. 22-132, June 08, 2022)

i) Notwithstanding Sections 1.4 and 1.7 of this By-law, a Building Permit for an Accessory Building may be issued in accordance with any minor variance, site specific zoning, or 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 21-070 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. 21- 070 came into effect. For the purposes of determining zoning conformity the following provisions 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 i) above.

ii) Once the permit or approval under Subsection i) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.

(By-law No. 21-189, October 13, 2021)

j) Residential Zones

i) Notwithstanding any other provisions of this By-law, any lot within a Residential Zone and the location thereon of any building or structure existing on the effective date of this By-law, shall be deemed to comply with the regulations of this By-law and are permitted by this By-law.

(By-law No. 22-197, August 12, 2022)

4.13 REDUCTION IN REGULATIONS RESULTING FROM STREET WIDENING

No person shall have deemed to have contravened any provisions of this By-law by reason only of the fact that a part or parts of any lot has or have been conveyed to or acquired by the City of Hamilton or the Government of Ontario for public road allowance purposes.

4.14 LANEWAYS DEEMED TO BE STREETS

The following laneways are deemed to be streets for the purposes of applying the provisions of this By-law;

	Name
1.	Renfrew Avenue
2.	Woodland Avenue
3.	Dexter Avenue
4.	Wright's Lane
5.	Trafalgar Boulevard
6.	Turner's Lane
7.	Dynes Park
8.	Patterson Street
9.	Clarence Street
10.	Whitehern Place
11.	Hunter Place
12.	Wesanford Place
13.	Tecumseh Street
14.	Crooks Street
15.	Little Greig Street
16.	Nelson Street
17.	Richmond Street
18.	Hill Street
19.	Blanchard Street
20.	Fanning Street
21.	Bold Street
22.	Pearl Street South
23.	Tuckett Street
24.	Woodbine Crescent
25.	Spring Street
26.	Ford Street
27.	Patrick Street

28. Beckley Street
29. Sawyer Road
30. Evans Street
31. Radial Street
32. Birch Avenue
33. Beck Street
34. Normajean Avenue
35. Holland Road
36. Courtland Avenue
37. Bull's Lane
38. Rosscliffe Drive
39. Malta Drive

(By-law No. 24-051, April 10, 2024)

4.15 MODEL HOMES IN PLANS OF SUBDIVISION

Notwithstanding any other provisions of this By-law, where a subdivision agreement has been executed (signed) by the owner, more than one model home may be constructed on a lot prior to registration of the plan of subdivision or on a lot or block within a registered plan of subdivision subject to the following restrictions:

a) The use shall be permitted in the zone in which the dwelling is to be located;

b) Each dwelling unit shall be used for the purpose of a model home only and shall not be occupied as a dwelling unit prior to the date of the registration of the subdivision plan;

c) For the purpose of this Section, a “multiple dwelling” shall only include that form of housing type commonly described as a block or cluster townhouse;

d) The maximum number of model homes shall not exceed 10% of the total number of lots intended for single detached dwellings, semi-detached dwellings or townhouse dwelling unit purposes within the draft approved plan of subdivision or registered plan of subdivision, to a maximum of 20 dwelling units;

e) The model home shall comply with all other provisions of this By-law, as

though the dwellings and/or units were constructed on the lot within the registered plan of subdivision; and,

f) The model home shall comply with all applicable terms and conditions of the said subdivision agreement.
(By-law No. 15-286, December 9, 2015)

4.16 REGULATION FOR CONSOLIDATED LOT DEVELOPMENT

a) Where two or more abutting lots under one identical ownership are consolidated for the purpose of development, the internal lot lines of the original lots shall not be construed to be lot lines for the purposes of any zoning regulations provided that all applicable regulations of this By-law relative to the consolidated lot development and its external lot lines are complied with.

b) Where a comprehensive condominium plan of subdivision has received draft plan approval or a conditional stratified severance has been approved, as well as any required site plan approval, and where registration of the plan is intended to occur in phases and/or stages, the lands to which the draft approved plan of condominium is to be located, shall be deemed to be one lot for the purposes of applying the provisions of the By-law. Zoning provisions shall apply only to the external lot lines of the overall condominium plan, not to internal lot lines resulting from the registration of any condominium phase.
(By-law No. 24-051, April 10, 2024)

4.17 AIRPORT

All development in the City of Hamilton shall comply with the Hamilton Airport Zoning (Height) Regulations established by Transport Canada, which are registered at the local Land Titles Office and which may be amended from time to time. No projections shall be permitted beyond this maximum height.
(By-law No. 22-084, April 13, 2022)

4.18 TEMPORARY USES

Nothing in this By-law shall prevent the use of any land or erection or use of any building for:

a) A construction camp, construction trailer, work camp, tool shed, scaffold or other temporary building incidental to and accessory for construction work

on the premises, but only for so long as may be reasonably necessary to complete such construction;

b) A temporary sales office incidental to the sale of dwelling unit(s) shall comply with all regulations for any dwelling type required by the zone in which it is located;
(By-law No. 08-227, September 24, 2008)
(By-law No. 11-276, November 16, 2011)

c) Temporary retailing in a Downtown D1, D2, D3 or D4 Zone, in a Transit Oriented Corridor TOC1, TOC2, TOC3 or TOC4 Zone, or in a Commercial Mixed Use C1, C2, C3, C4, C5, C5a, C6, and C7 Zone in accordance with the following provisions:

i) The retail use shall not be in operation for more than 5 consecutive days;

ii) Seasonal Garden Centres, including the retail sales of Christmas trees, are subject to the following:

1. Shall not be in operation for more than 120 days annually;

2. Shall not be located in a landscaped area or planting strip;

3. Shall not occupy more than 10% of the total number of provided parking spaces and shall not obstruct the manoeuvring area of any parking or loading space; and,

4. Shall not occupy areas devoted to barrier-free parking space(s) or loading space(s).

(By-law No. 16-265, October 12, 2016)
(By-law No. 17-240, November 8, 2017)
(By-law No. 18-032, February 14, 2018)

iii) Notwithstanding Subsection 4.18 c) i), retailing of fireworks on Victoria Day, Canada Day, and during the seven day period immediately preceding each of those days.
(By-law No. 21-189, October 13, 2021)

d) Temporary tent(s) or stage(s) in a Downtown Zone, Transit Oriented Corridor Zone, Commercial and Mixed Use Zone, Institutional Zone or in a Parking (U3) Zone, Neighbourhood Park (P1) Zone, Community Park (P2)

Zone, City Wide Park (P3) Zone, Open Space (P4) Zone, in accordance with the following provisions:

i) Shall not be in operation for more than 5 consecutive days;

ii) Shall not be subject to any minimum or maximum yard setbacks or parking requirements of the zone;

iii) Notwithstanding ii) above, minimum setbacks shall apply if abutting a Residential Zone; and,

iv) Shall not occupy areas devoted to barrier-free parking space(s) or loading space(s).

(By-law No. 19-062, March 27, 2019)
(By-law No. 21-189, October 13, 2021)

Please refer to Temporary Use 8 in Schedule "E" to Zoning By-law No. 05-200 for temporary tents located in the following zones: Downtown Central Business District (D1) Zone, Downtown Mixed Use – Pedestrian Focus (D2) Zone, Downtown Mixed Use (D3) Zone, Community Park (P2) Zone, City Wide (P3) Zone, Neighbourhood Commercial (C2) Zone, Community Commercial (C3) Zone, Mixed Use High Density (C4) Zone, Mixed Use Medium Density (C5) Zone, Mixed Use Medium Density - Pedestrian Focus (C5a) Zone, District Commercial (C6) Zone, Arterial Commercial (C7) Zone, Transit Oriented Corridor Mixed Use Medium Density (TOC1) Zone, Transit Oriented Corridor Local Commercial (TOC2) Zone, Transit Oriented Corridor Mixed Use High Density – Pedestrian Focus (TOC4) Zone, Neighbourhood Institutional (I1) Zone, Community Institutional (I2) Zone and Major Institutional (I3) Zone, Research and Development (M1) Zone, General Business Park (M2) Zone, Prestige Business Park (M3) Zone, Business Park Support (M4) Zone, General Industrial (M5) Zone, Light Industrial (M6) Zone, Airside Industrial (M7) Zone, Airport Related Business (M8) Zone, Airport Light Industrial (M10) Zone, Airport Prestige Business (M11) Zone, Shipping and Navigation (Port Lands) (M13) Zone, Shipping and Navigation (East Port) (M14) Zone.

e) Temporary Performance Arts Theatre within an existing Educational Establishment or Place of Worship, in a Community Institutional (I2) Zone, and Major Institutional (I3) Zone for a maximum of five consecutive days and shall not be subject to parking requirements.

(By-law No. 17-220, October 25, 2017)
(By-law No. 21-189, October 13, 2021)

f) Trailers used to provide a temporary restaurant service while the associated principal restaurant building is undergoing renovation, restoration, or construction for a maximum of four months, shall not be subject to parking requirements provided the Gross Floor Area of the temporary trailer does not exceed the Gross Floor Area of the principal restaurant.
(By-law No. 19-062, March 27, 2019)
(By-law No. 21-189, October 13, 2021)

4.19 VISUAL BARRIER

Where this By-law requires a visual barrier to be provided and maintained, such barrier shall act as a screen between uses and be constructed to a minimum height of 1.8 metres, and to a maximum height of 2.5 metres where a visual barrier consists of a fence or wall and shall not be located within 3.0 metres of a street line. A visual barrier shall consist of the following:

a) A wall, fence;

b) A continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth;

c) Earth berms; or,

d) Any combination of the above.

(By-law No. 08-227, September 24, 2008)
(By-law No. 10-076, April 14, 2010)
(By-law No. 11-276, November 16, 2011)
(By-law No. 19-062, March 27, 2019)

4.20 OUTDOOR COMMERCIAL PATIOS

Please refer to Temporary Use 6 in Schedule "E" to Zoning By-law No. 05-200 for outdoor commercial patios located in the following zones: Downtown Central Business District (D1) Zone, Downtown Prime Retail Streets (D2) Zone, Downtown Mixed Use (D3) Zone, Community Commercial (C2) Zone, Community Commercial (C3) Zone, Mixed Use High Density (C4) Zone, Mixed Use Medium Density (C5) Zone, Mixed Use Medium Density - Pedestrian Focus (C5a) Zone, District Commercial (C6) Zone, Arterial Commercial (C7) Zone, Mixed Use (TOC1) Zone, Local Commercial (TOC2) Zone, Mixed Use High Density (TOC4) Zone.

Notwithstanding any provisions of this By-law, every Outdoor Commercial Patio, inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances, shall comply with the following:

a) Design Requirements

Outdoor Commercial Patios shall be designed and used to accommodate seating of customers.

b) Seating Capacity Requirements

An Outdoor Commercial Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no outdoor patio shall be permitted on a lot where any lot line abuts a Residential Zone, Downtown D5 or Downtown D6 Zone or where such lot is separated from a Residential Zone, Downtown D5 or Downtown D6 Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone, Downtown D5 or Downtown D6 Zone or the lot is separated from the Residential Zone, Downtown D5 or Downtown D6 Zone by a laneway, an outdoor patio shall be permitted in the front yard.

(By-law No. 09-210, September 30, 2009)
(By-law No. 11-276, November 16, 2011)
(By-law No. 15-072, March 11, 2015)
(By-law No. 22-075, April 13, 2022)

4.21 HOME BUSINESS

No person shall conduct a home business except as permitted:

a) Home Businesses permitted in Single Detached Dwellings and Semi-Detached Dwellings:

i) Academic Instruction (not more than one student at a time);

ii) Studio, excluding accessory retail or an establishment used for the

making or transmission of motion pictures, radio or television programs;

iii) Office;

iv) Personal Service;

v) Catering Service, excluding any on-site retail;

vi) Repair Service;

vii) Bed and Breakfast Establishment with a maximum of 3 guestrooms;

viii) Craftsperson Shop, excluding accessory retail; and,

ix) Within the A1, A2, S1 and P6 Zones, an office of 1 health professional, physician or dentist existing at the time of passing of this By-law.

(By-law No. 15-173, July 10, 2015)
(By-law No. 19-062, March 27, 2019)
(By-law No. 25-155, August 06, 2025)

b) Regulations for Home Businesses in Single Detached Dwellings and Semi-Detached Dwellings:

i) Except in addition to an office, not more than one home business per dwelling unit shall be permitted;

ii) No more than one non-resident employee shall be permitted;

iii) Parking shall be provided at a rate of one space for each dwelling unit; one space for the non-resident employee; and one space for each home business, except as follows:

1. For an office conducted in such a manner so as not to attract customers or clients directly to the dwelling unit, there shall be provided only one space for each dwelling unit and one space for any non-resident employee; and,

2. For a Bed and Breakfast Establishment, there shall be provided one space for each dwelling unit, one space for any non-resident employee and one space for each guestroom.

3. Notwithstanding anything else in this By-law, parking spaces required for a home business and the dwelling shall be permitted in the form of tandem parking spaces.
(By-law No. 21-189, October 13, 2021)

iv) No outdoor storage shall be permitted;

v) There shall be no display of product to indicate to persons outside the premises that any part of the premises is being used for any purpose other than that of a dwelling;

vi) The total floor area used for a home business, excluding a Bed and Breakfast Establishment, shall not exceed 25% of the gross floor area of the dwelling unit or 50 square metres, whichever is the lesser amount. This requirement shall apply whether the home business is carried out in the dwelling unit or in an accessory building, or both;

vii) No noise, vibration, fumes, odour, dust or glare emitted to the environment outside of the building shall be permitted, beyond which is normally associated with a dwelling unit;

viii) No repair of equipment having a combustion engine shall be permitted nor shall any such equipment be used in the process of conducting any home business;

ix) No repair of parts or accessories for motor vehicles or major recreational equipment shall be permitted;

x) No repair service shall be conducted in an accessory building, except for the purpose of indoor storage accessory to the repair service;

xi) Not more than one parking space required for, or associated with, a home business may be located in the rear yard, except in the case of a corner lot or a lot abutting a laneway; and,

xii) A hair dresser or barber shall be limited to a maximum of one hair washing sink and one styling station;

xiii) The proprietor of a Bed and Breakfast Establishment shall reside on the premises.

(By-law No. 26-161, September 09, 2026)

c) Home Businesses permitted in Duplex Dwellings, Triplex Dwellings, Fourplex Dwellings, Multiple Dwellings, Multiple Dwelling Townhouses and Street Townhouse Dwellings:

i) Academic instruction (no more than one student at a time);

ii) Craftsperson Shop (excluding accessory retail);

iii) Office
(By-law No. 11-276, November 16, 2011)
(By-law No. 25-075, April 16, 2025)

d) Regulations for Home Businesses in Duplex Dwellings, Triplex Dwellings, Fourplex Dwellings, Multiple Dwellings, Multiple Dwelling Townhouses and Street Townhouse Dwellings:

i) A home business shall only be conducted by the person or persons residing in the dwelling unit;

ii) Only one home business shall be permitted for each dwelling unit and the gross floor area of such use shall not exceed 15.0 square metres;

iii) No noise, vibration, fumes, odour, dust or glare emitted to the environment outside of the building shall be permitted, beyond which is normally associated with a dwelling unit;

iv) No outdoor storage shall be permitted;

v) There shall be no display of product to indicate to persons outside the premises that any part of the premises is being used for any purpose other than that of a dwelling; and,

vi) No additional parking is required for the home business.
(By-law No. 11-276, November 16, 2011)
(By-law No. 24-051, April 10, 2024)
(By-law No. 25-075, April 16, 2025)

e) A home business within a Dwelling Unit, Mixed Use shall not be permitted.
(By-law No. 19-062, March 27, 2019)
(By-law No. 22-084, April 13, 2022)

4.22 ADEQUATE SERVICES

Except for Section 4.15 – Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of Planning and Economic Development Department and/or his or her designate; or,

ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate;

iii) For lands in a Rural zone,

1) An approved waste disposal and water supply systems to sustain the use of land for buildings shall be provided and maintained to the satisfaction of the Chief Building Official; and,

2) All regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.

iv) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton Parkland Dedication and Cash-in-lieu of Parkland Policy has been received to the satisfaction of the General Manager of Planning and Economic Development Department and/or his or her designate.
(By-law No. 06-038, March 1, 2006)

(By-law No. 14-238, September 10, 2014)
(By-law No. 21-071, May 12, 2021)

4.23 SPECIAL SETBACKS

Notwithstanding any other provisions in this By-law, the following Special Setbacks shall apply:

a) **Setback from a Provincial Highway Right-of-Way**
All buildings, structures, required parking areas and storm water management facilities located on a property shall be setback a minimum of 14.0 metres from a Provincial Highway Right-of-Way.

b) **Setback from a Railway Right-of-Way**
All buildings or structures within a Residential Zone or an Institutional Zone shall be setback a minimum of 30.0 metres from a Railway Right-of- Way.

c) **Setback from a Pipeline Right-of-Way**

i) All buildings or structures located on a property shall be setback a minimum of 10.0 metres from a Pipeline Right-of-Way.
(By-law No. 24-051, April 10, 2024)

ii) Notwithstanding Section 4.23 c) i), the minimum setback from a TransCanada PipeLines Limited Pipeline Right-of-Way shall be 7.0 metres for any building, structure, parking area or loading area, including any parking spaces, loading spaces, drive aisles, driveways, stacking spaces or bicycle parking spaces.
(By-law No. 24-137, July 12, 2024)

d) **Setback from a Conservation/Hazard Land (P5) Zone, Conservation/Hazard Land Rural (P7) Zone and Conservation/Hazard Land Rural (P8) Zone**
All buildings or structures located on a property shall have a minimum setback of 7.5 metres from a P5, P7 and P8 Zone boundary, which is determined by flood and fill line mapping as prepared by the Conservation Authority having jurisdiction and amended from time to time.

e) **Setback from the Lincoln Alexander Parkway**

a. Notwithstanding any other provisions of this By-law, all structures shall be

set back a minimum 15.24 metres from the Lincoln Alexander Parkway Right-of-Way.

b. Notwithstanding Section 4.23 e) i), all residential buildings shall be set back a minimum 22.86 metres from the Lincoln Alexander Parkway Right-of-Way, excluding access ramps.

(By-law No. 15-173, July 10, 2015)
(By-law No. 10-128, May 26, 2010)
(By-law No. 22-084, April 13, 2022)
(By-law No. 22-197, August 12, 2022)

f) **Setback from Top of Bank of Lake Ontario Shoreline**

A minimum setback of 7.5 metres from the top of bank, as determined by the applicable Conservation Authority, shall apply for all buildings and structures on a property abutting the Lake Ontario Shoreline.

(By-law No. 24-051, April 10, 2024)

4.24 CONSERVATION AUTHORITY REGULATION AREA

Lands shown on Schedule "A" – zoning Maps as "CA Regulation Area" are subject to additional regulation by the applicable Conservation Authority. Landowners are advised to contact the appropriate Conservation Authority prior to any development or site alteration within the area subject to the Conservation Authority Regulation in order to determine approval requirement(s).

These boundaries are intended for information and reference purposes, and are subject to change from time to time without requiring amendment to this By-law.
(By-law No. 10-128, May 26, 2010)

4.25 DRIVE THROUGH REGULATIONS

a) Notwithstanding any other provisions in this By-law, every drive through shall provide the following minimum number of stacking spaces from the service window:

i) Restaurant - 12 spaces

ii) All other uses - 3 spaces

b) No stacking spaces shall be less than 2.6 metres in width by 6.0 metres in length, unless otherwise provided for in this By-law.
(By-law No. 10-128, May 26, 2010)

c) Locational specific regulations

i) No Drive-Through Facility shall be permitted to locate between any required parking area and the main entrance for the use;

ii) No Drive-Through Facility stacking lane shall be permitted between the street and the building, except where other buildings on the same lot occupy the space between the Drive-Through Facility and a street;

iii) Required stacking spaces shall not be permitted in any aisle providing access to the required parking nor obstruct the ability to access a parking space; and,

iv) No Drive-Through Facility, including the stacking space, and any access driveway or manoeuvring space to provide access to the Drive-Through Facility, shall be permitted less than 12.0 metres from a Residential Zone measured from the property line of the lot containing the Drive-Through Facility abutting a Residential Zone or where the lots are separated by a public street, from the lot line closest to the Residential Zone.

(By-law No. 17-240, November 8, 2017)

d) Where a Landscaped Area occupies the space between a Drive-Through Facility and a Residential Zone or an Institutional Zone property line:

i) A minimum 3.0 metre planting strip shall be provided and maintained along that portion of the lot line that abuts a Residential Zone or Institutional Zone property line or lot containing a residential use; and,

ii) In addition to Section 4.19, a minimum 1.8 metre solid visual barrier shall be provided and maintained along that portion of the property line that abuts Residential Zone or Institutional Zone property line or a lot containing a residential use.

(By-law No. 17-240, November 8, 2017)

4.26 URBAN FARM

(a) Every urban farm, as a principal use, shall comply with the following:
(By-law No. 24-137, July 12, 2024)

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) Notwithstanding Section 4.8.1.1 d) and Section 4.8.2 b), 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.
(By-law No. 24-137, July 12, 2024)

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.

(b) Notwithstanding Section 4.26 a), 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.

(c) Every urban farm that locates on the same lot as another principle use, shall comply with the following:

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 4.8.1, 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.

(d) Notwithstanding permitted uses in any Residential, Commercial and Mixed Use or Institutional zone, an urban farm shall only be permitted in the rear yard or on the roof top for the following properties:

	Street	**From**	**To**
i)	Wilson Street	Dalley Drive	Rousseaux Street
ii)	Dundas Street (Dundas)	York Road	Market Street
iii)	Mill Street	Church Street	Highway 5
iv)	Binbrook Road	Highway 56	2553 Binbrook Road
v)	King Street West	Longwood Road	Sterling Street
vi)	James Street North	CN Railway Tracks	Cannon street

vii)	James Street South	Hunter Street East	Markland Avenue
viii)	Locke Street	Main Street West	Herkimer Street
ix)	Kenilworth Avenue North	Barton Street	Main Street East
x)	Ottawa Street North	Barton Street	Main Street East
xi)	Barton Street East	Sherman Avenue North	Wellington Street North
xii)	Concession Street	East 33rd Street	East 15th Street

(By-law No. 14-273, September 24, 2014)
(By-law No. 24-137, July 12, 2024)

4.27 COMMUNITY GARDEN

(a) All buildings and structures shall comply with the accessory structure regulations of the zone in which it is located.

(b) Notwithstanding Section 4.8.1, where a community garden is located on a roof top, the height of the accessory structure shall not exceed the maximum building height.

(c) Notwithstanding permitted uses in any Residential, Commercial and Mixed Use or Institutional zone and in addition to the provisions of Section 4.27 (b), a community garden shall only be located in the rear yard or on a roof top of a principal building in the following areas:

	Street	**From**	**To**
i)	King Street West	Longwood Road	Sterling Street
ii)	James Street North	CN Railway Tracks	Cannon Street
iii)	James Street South	Hunter Street East	Markland Avenue
iv)	Locke Street	Main Street West	Herkimer Street
v)	Kenilworth Avenue North	Barton Street	Main Street East

vi)	Ottawa Street North	Barton Street	Main Street East
vii)	Barton Street East	Sherman Avenue North	Wellington Street North
viii)	Concession Street	East 33rd Street	East 15th Street

(By-law No. 14-273, September 24, 2014)
(By-law No. 24-137, July 12, 2024)

4.28 URBAN FARMERS MARKET

(a) No person shall conduct an urban farmers market except as permitted herein and in accordance with the requirements of subsection 4.28:

(i) An urban farmers market may be permitted in the D1 and D2 Zones in accordance with the requirements of Section 4.28;

(ii) Notwithstanding the definition of accessory, an urban farmers market may be permitted on the same lot as the following existing uses in the Downtown, (D5) and (D6), Institutional (I1), (I2) and (I3), Community Park (P2) and City Wide Park (P3), Transit Oriented Corridor (TOC1), (TOC2) and (TOC4) and Commercial and Mixed Use (C3), (C4), (C5), (C5a), and (C6) Zones:

1. Arena;
2. Commercial Recreation;
3. Community Centre;
4. Child Care Centre;
5. Educational Establishment;
6. Long Term Care Facility;
7. Hospital;
8. Commercial Parking;
9. Place of Worship;
10. Stadium; and,
11. Swimming Pool.

(By-law No. 21-189, October 13, 2021)
(By-law No. 25-155, August 06, 2025)

(iii) the majority of the local agricultural products or local value added agricultural products sold from vendor stalls shall be grown or produced by the person who operates the vendor stalls;

(iv) 75% of vendors shall sell local agricultural products, value-added local agricultural products or VQA wines;

(v) 25% of the vendors may include entertainment, food premises/ demonstrations, baked goods, but shall not include the sale of personal services or second hand goods;

(vi) the sale of VQA wines shall only be permitted in accordance with provincial regulations governing the sale of wine;

(vii) include a minimum of 5 vendor stalls and a maximum of 50 vendor stalls;

(viii) operates a maximum of 2 days each week; and,

(ix) may occupy the required parking spaces and be located within the required yards of the principal use.

(By-law No. 15-107, April 22, 2015)
(By-law No. 18-114, May 9, 2018)
(By-law No. 24-137, July 12, 2024)

4.29 MINIMUM DISTANCE SEPARATION FORMULAE

a) That all development within the City of Hamilton be subject to the Minimum Distance Separation (MDS) formulae as established by the Province, as amended from time to time.

b) Notwithstanding a) above, where a new dwelling is proposed to be constructed on an existing lot less than 4.0 hectares in size, MDS I shall not be applied.

c) Notwithstanding a) above, where a new building other than buildings associated with agriculture are proposed to be constructed on an existing lot, MDS I shall not be applied.

(By-law No. 15-173, July 10, 2015)

4.30 ENVIRONMENTAL IMPACT STATEMENT (EIS)

An EIS may be required where development is proposed in or adjacent to an environmental feature in order to ensure that the environmental feature is appropriately protected against the impacts of development. Accordingly, an EIS

may be required for development proposed on lands zoned P6, P7 and P8 as well as development proposed within 120 metres of natural features."
(By-law No. 15-173, July 10, 2015)

4.31 NIAGARA ESCARPMENT PLAN DEVELOPMENT CONTROL AREA

Pursuant to Ontario Regulations 828/90, as amended from time to time, when lands are located within the Development Control Area defined under Ontario Regulation 826/90, as amended from time to time, and identified as "Niagara Escarpment Commission Development Control Area" on Schedule "A" – Zoning Maps, zoning shall have no effect and is provided for information purposes only.
(By-law No. 15-173, July 10, 2015)

4.32 REDUCTION IN REGULATIONS RESULTING FROM PUBLIC TRANSIT FACILITIES

No lot shall be deemed to be in contravention of any provisions(s) of this By-law by reason only of the fact that a part or parts of any lot has or have been conveyed to, or acquired, leased, or subject to an easement by the City of Hamilton or Province of Ontario for the placement of public transit facilities.
(By-law No. 19-062, March 27, 2019)

4.33 ADDITIONAL DWELLING UNIT AND ADDITIONAL DWELLING UNIT - DETACHED

a) All the regulations of this By-law applicable to the principal dwelling shall continue to apply unless specifically provided in Section 4.33.

b) A Single Detached Dwelling, Duplex Dwelling, or Triplex Dwelling built in conformity with this By-law, may be converted to contain a fourth Additional Dwelling Unit, provided that the principal residential building is not located within any Rural Zone or Open Space and Park Zone.

c) No more than four Dwelling Units shall be permitted on a lot that contains an Additional Dwelling Unit and/or Additional Dwelling Unit – Detached.

   i. Notwithstanding Section 4.33 c), and in accordance with Section 4.33.1 a), no more than three Dwelling Units shall be permitted on a divided lot containing a semi-detached dwelling unit of a Semi-Detached Dwelling or a street townhouse dwelling unit of a Street Townhouse Dwelling.

(By-law No. 24-051, April 10, 2024)
(By-law No. 25-075, April 16, 2025)
(NOT FINAL & BINDING, By-law No. 26-179, October 07, 2026)

4.33.1 ADDITIONAL DWELLING UNIT

a) Excluding any Rural Zone or Open Space and Park Zone, Additional Dwelling Units shall be permitted in accordance with the following:

i) A Single Detached Dwelling shall be permitted to contain up to two Additional Dwelling Units.

ii) A Duplex Dwelling shall be permitted to contain one Additional Dwelling Unit.

iii) Each semi-detached dwelling unit of a Semi-Detached Dwelling shall be permitted to contain up to two Additional Dwelling Units.

iv) Each street townhouse dwelling unit of a Street Townhouse Dwelling shall be permitted to contain up to two Additional Dwelling Units.

(By-law No. 24-051, April 10, 2024)
(By-law No. 25-075, April 16, 2025)
(NOT FINAL & BINDING, By-law No. 26-179, October 07, 2026)

4.33.2 ADDITIONAL DWELLING UNIT – DETACHED

a) Excluding any Rural Zone or Open Space and Park Zone, a maximum of one Additional Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling, Duplex Dwelling, Semi-Detached Dwelling, Street Townhouse Dwelling, or a Triplex Dwelling.

(By-law No. 25-075, April 16, 2025)

i) Notwithstanding Section 4.33.2 a) above, an Additional Dwelling Unit - Detached shall not be permitted on a lot containing a Semi-Detached Dwelling or Street Townhouse Dwelling, which contains two or more Additional Dwelling Units.

NOTE: The above noted modification to Section 4.33.2 a) i) is in accordance with Section 35.1 (1) of the *Planning Act*, R.S.O. 1990. The regulation will be updated through a forthcoming Zoning By-law Amendment to reflect the legislation.

b) In addition to Section 4.33.2 (a), a legally established accessory building existing as of May 12, 2021, may be converted to the one Additional Dwelling Unit – Detached, subject to the following provision:

i) Any additions over 10% of the existing gross floor area of the legally established accessory building converted to an Additional Dwelling Unit – Detached shall be in accordance with the regulations of Section 4.33.2.

c) An Additional Dwelling Unit – Detached shall only be permitted in a Rear and/or interior Side Yard.

d) A minimum 1.2 metre setback shall be provided from the interior Side Lot Line and Rear Lot Line.

i) Notwithstanding Section 4.33.2 d), an eave or a gutter may extend a maximum of 0.45 metres into a required minimum setback area.

ii) In addition to Section 4.33.2 d), a landscape strip is required to be provided within the required side yard adjacent to an Additional Dwelling Unit – Detached and shall be limited to sod, ground cover, permeable pavers, or a planting strip, and may include a visual barrier.

e) An Additional Dwelling Unit – Detached shall not be located closer to the flankage street than the principal dwelling.

f) 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 Additional Dwelling Unit – Detached shall be provided and maintained.

g) The following building separation shall be provided:

i) Where an Additional Dwelling Unit – Detached is in the Rear Yard, a minimum distance of 4.0 metres shall be required between the rear wall of the principal dwelling and the Additional Dwelling Unit – Detached.

ii) Where an Additional Dwelling Unit – Detached is 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 an Additional Dwelling Unit – Detached; and,

(B) An Additional Dwelling Unit – Detached shall be set back a minimum 5.0 metres from the front façade of the principal dwelling.

h) A maximum height of 6.0 metres shall be permitted.

i) Notwithstanding Section 4.33.2 h), balconies and rooftop patios shall be prohibited above the first floor level.

i) The maximum gross floor area shall not exceed the lesser of 75 square metres or the gross floor area of the principal dwelling.

i) In addition to Sections 4.33.2 i) and 4.33.2 i) ii), and notwithstanding any other provisions of this By-law, the maximum combined lot coverage of all buildings and structures on a lot containing an Additional Dwelling Unit – Detached shall be 45%.

ii) In addition to Section 4.33.2 i), the ground floor area of a Additional 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.

(By-law No. 22-132, June 08, 2022)
(By-law No. 22-197, August 12, 2022)
(By-law No. 23-079, May 10, 2023)
(By-law No. 24-051, April 10, 2024)
(By-law No. 25-033, April 16, 2025)

4.33.3 ADDITIONAL DWELLING UNITS IN AGRICULTURE (A1), RURAL (A2), SETTLEMENT RESIDENTIAL (S1), AND CONSERVATION LAND RURAL (P6) ZONES

a) For lands within an A1, A2, S1, or P6 Zone, a maximum of one Additional Dwelling Unit shall be permitted and shall only be permitted on a lot that is greater than 0.6 ha in size.

b) Notwithstanding 4.33.3 a), an Additional Dwelling Unit shall not be permitted on lands identified in Special Figures 24.1 to 24.5.

c) The waste disposal and water supply systems shall be in accordance with Section 4.22 iii).

(By-law No. 21-071, May 12, 2021)
(By-law No. 22-132, June 08, 2022)
(By-law No. 24-051, April 10, 2024)
(By-law No. 25-075, April 16, 2025)

4.33.4 ADDITIONAL DWELLING UNIT – DETACHED IN AGRICULTURAL (A1), RURAL (A2) AND SETTLEMENT RESIDENTIAL (S1) ZONES

a) For lands within an A1, A2, S1 Zone, a maximum of one Additional Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling having a minimum lot area of 1.5 hectares.

i) Notwithstanding 4.33.4 a) above, an Additional Dwelling Unit – Detached shall not be permitted on lands identified in Figures 24.1 to 24.5 of Schedule "F" – Special Figures.

b) In addition to Section 4.33.4 a), a legally established accessory building existing as of May 12, 2021, may be converted to the one Additional Dwelling Unit – Detached permitted on a lot containing an existing Single Detached 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 an Additional Dwelling Unit – Detached shall be in accordance with the regulations of Section 4.33.4.

c) All the regulations of the By-law applicable to the existing dwelling shall continue to apply unless specifically provided in Section 4.33.4.

d) An Additional 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 4.33.4 e), an eave or a gutter may extend a maximum of 0.45 metres into a required minimum setback area.

ii) In addition to Section 4.33.4 e), a landscaped strip is required to be provided within the required side yard adjacent to an Additional Dwelling Unit – Detached and shall be limited to sod, ground cover, permeable pavers, or a planting strip, and may include a visual barrier.

f) An Additional 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 Additional Dwelling Unit – Detached shall be provided and maintained.

h) The following building separation shall be provided:

i) Where an Additional Dwelling Unit – Detached is in the Rear Yard, a minimum distance of 7.5 metres shall be required between the rear wall of the principal dwelling and the Additional Dwelling Unit – Detached.

ii) Where an Additional Dwelling Unit – Detached is 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 an Additional Dwelling Unit – Detached; and,

B) An Additional 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 4.33.4 i), balconies and rooftop patios shall be prohibited above the first floor level.

j) The maximum gross floor area shall not exceed the principal dwelling.

k) Notwithstanding 4.33.4 j) above, the maximum combined lot coverage of all accessory buildings, Farm Labour Residence(s) and the Additional Dwelling Unit – Detached shall be 25% of the lot area.

l) The waste disposal and water supply systems shall be in accordance with Section 4.22 iii).

(By-law No. 24-039, March 27, 2024)
(By-law No. 25-155, August 06, 2025)

4.34 Intentionally left blank
(By-law No. 24-051, April 10, 2024)

4.35 LANDSCAPE REQUIREMENTS

4.35.1 LANDSCAPE REQUIREMENTS FOR LOW DENSITY RESIDENTIAL USES

On lots containing a Single Detached Dwelling, Semi-Detached Dwelling, Duplex Dwelling, Triplex Dwelling, Fourplex Dwelling, or Street Townhouse Dwelling in all zones, the following shall be provided:

a) A minimum 50% Landscaped Area in the Front Yard;

b) A minimum 50% Landscaped Area in the Flankage Yard;

c) A single area within the overall required Landscaped Area for tree protection and/or tree planting, subject to the following:

i) each side shall be a minimum 3.75 metres in length; and,

ii) shall not contain hard landscaping or structures.

d) A minimum 50% Soft Landscaping within the overall required Landscaped Area.

e) On a lot containing a fourplex dwelling, when parking spaces are located in the rear yard, the following shall be provided:

i) A minimum 1.5 metre wide landscaped strip shall be provided between the parking spaces and/or aisle, and the side lot line, and shall contain a wall or fence in accordance with the requirements of Section 4.19; and,

ii) A minimum 3 metre wide landscaped strip shall be provided between the parking spaces and/or aisle, and the rear lot line, and shall contain a Visual Barrier in accordance with the requirements of Section 4.19.

(By-law No. 22-197, August 12, 2022)
(By-law No. 24-051, April 10, 2024)
(By-law No. 25-189, October 08, 2025)
(NOT FINAL & BINDING, By-law 26-178, October 07, 2026)

4.35.2 LANDSCAPE REQUIREMENTS FOR MULTIPLE DWELLINGS, MULTIPLE DWELLING TOWNHOUSES, AND OTHER RESIDENTIAL USES

On a lot containing a Multiple Dwelling, Multiple Dwelling Townhouse, Residential Care Facility, Retirement Home, or Lodging House in a Residential Zone, the following shall be provided:

a) A minimum 50% of the required Landscaped Area shall be provided as Soft Landscaping.

(By-law No. 25-189, October 08, 2025)

4.36 USES NOT SUBJECT TO THE ZONING BY-LAW

a) Pursuant to Section 62.0.2 of the *Planning Act*, on any lands outside of the Greenbelt Area, as defined in the *Greenbelt Act*, as amended, any undertaking of a post-secondary institution for the objects of the institution is not subject to the *Planning Act*. Accordingly, on any lands outside of the Greenbelt Area, zoning shall have no effect on an undertaking that has satisfied the requirement that it is for the objects of the institution, in accordance with the *Planning Act*, in which case, zoning is provided for information purposes only.

b) Pursuant to Section 62.0.4 of the *Planning Act*, on any lands outside of the Greenbelt Area, as defined in the *Greenbelt Act*, as amended, the development or redevelopment of a building or part of a building, the use of a building, or the use of the parcel of land on which the building is located, with funding pursuant to a funding agreement entered into by the Ministry of Labour, Immigration, Training and Skills Development for training or skills development purposes agreed to in the funding agreement, is not subject to the *Planning Act*. Accordingly, zoning is provided for information purposes only.

(By-law No. 25-075, April 16, 2025)
(By-law No. 26-046, March 04, 2026)

4.37 DIVISION OF A LOT CONTAINING A SEMI-DETACHED DWELLING

Where a lot containing and existing Semi-Detached Dwelling is to be divided to facilitate conveyance of one half of the Semi-Detached Dwelling, such conveyance shall not be restricted by any requirement in this By-law respecting minimum lot area or minimum lot width.

(By-law No. 25-155, August 06, 2025)

4.38 PRIVATELY OWNED PUBLIC SPACE PERMITTED IN ALL ZONES

Privately Owned Public Space shall be permitted in any Zone and shall not be restricted by any requirement of this By-law.

(By-law No. 25-155, August 06, 2025)

4.39 HOME CHILD CARE

a) A Home Child Care use shall be permitted within any Dwelling Unit in any zone provided that the principal residential use is permitted in the zone.

b) A Home Child Care use shall not be considered a Home Business use.

c) All the regulations of this By-law applicable to the principal dwelling shall continue to apply.

(By-law No. 25-155, August 06, 2025)

4.40 PROHIBITION OF DUAL USE OF LOT FOR RESIDENTIAL AND INDUSTRIAL PURPOSES

Notwithstanding anything in this By-law, no industrial use may be established on any lot containing a residential use, so long as the residential use continues.

(By-law No. 25-155, August 06, 2025)

4.41 DIVISION OF A LOT CONTAINING A MULTIPLE DWELLING TO TOWNHOUSE WHERE REQUIRED TO BE ON THE SAME LOT AS A SEPARATED USE

Notwithstanding the requirement of Section 15.6.1.1 iii) with respect to the requirement for a Multiple Dwelling Townhouse to be located on the same lot as a Lodging House, Multiple Dwelling, Residential Care Facility, Retirement Home, a lot containing one or more Multiple Dwelling Townhouses and none of the separately required uses may be created, provided that:

i) All buildings on the lot to be divided have been built in conformity with this By-law; and,

ii) Any newly created lot(s) and any buildings thereon comply with all other requirements of this By-law.

(By-law No. 25-189, October 8, 2025)