

Authority: Item 9, Planning Committee
Report 21-006 (PED20093(a))
CM: April 28, 2021
Ward: 15

Bill No. 074

CITY OF HAMILTON

BY-LAW NO. 21-074

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting the Introduction of Secondary Dwelling Unit Regulations

WHEREAS Council approved Item 9 of Report 21-006 of the Planning Committee, at the meeting held on April 28, 2021;

AND WHEREAS this By-law will be in conformity with the Urban Hamilton Official Plan.

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

1. That Section 5.21.1 – Parking Space Requirements of **SECTION 5: GENERAL PROVISIONS** be amended by adding the following new subsection:

| Type of Use | Minimum Number of Parking Spaces Required |
|--|---|
| (aaa) Secondary Dwelling Unit Secondary Dwelling Unit – Detached | 1 space per unit |

2. That **SECTION 5: GENERAL PROVISIONS** be amended by adding the following new subsection:

“5.43 SECONDARY DWELLING UNITS AND SECONDARY DWELLING UNITS – DETACHED

5.43.1 General Regulations

- (a) For the purposes of Section 5.43 – Secondary Dwelling Units and Secondary Dwelling Unit – Detached, the following definitions shall apply:

- (i) **Ditch** means a small to moderate excavation created to channel water.

- (ii) **Secondary Dwelling Unit** means a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling.
 - (iii) **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.
 - (iv) **Swale** means a graded or engineered landscape feature appearing as a linear, shallow, open channel to provide for water drainage.
- (b) Notwithstanding Section 5.2, a detached Secondary Dwelling Unit shall only be considered as an accessory building for the purposes of lot coverage.
 - (c) For lands within a Residential Zone, a maximum of one Secondary Dwelling Unit shall be permitted within a Single Detached Dwelling, a Semi-Detached Dwelling or Street Townhouse Dwelling.
 - (d) For lands within a Residential 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.
 - (e) Section 5.4.1 shall not apply to a Secondary Dwelling Unit – Detached.
 - (f) A Secondary Dwelling Unit shall be permitted in each semi-detached or street townhouse dwelling unit on a non-severed lot.
 - (g) A single detached dwelling containing one Secondary Dwelling Unit, Secondary Dwelling Unit – Detached, or both, shall not be considered a duplex or triplex.
 - (h) A semi-detached dwelling containing one or more Secondary Dwelling Units, one or more Secondary Dwelling Units – Detached, or both, shall not be considered a triplex, apartment building, or quadplex.
 - (i) A street townhouse dwelling on one lot containing one or more Secondary Dwelling Units, one or more Secondary Dwelling

Units – Detached, or both, shall not be considered a triplex, apartment building, or quadplex.

- (j) A Secondary Dwelling Unit – Detached shall not be permitted in a Front Yard or a Flankage Yard.
- (k) Parking shall be provided in accordance with Section 5.21 of this by-law.
- (l) Notwithstanding Section 5.21.5, parking for a Secondary Dwelling Unit and Secondary Dwelling Unit – Detached may be provided in the required front yard in accordance with Section 5.21 of this by-law.
- (m) Parking shall be provided to all lots containing a Secondary Dwelling Unit in accordance with Section 5.12.1(d) and shall also apply to flankage yards, and shall not include concrete, asphalt, gravel, pavers, or other similar material;
 - (i) Encroachments in the Front and Flankage Yards identified in Section 5.43.1(m) shall also be subject to Section 5.30.
 - (ii) Notwithstanding Section 5.43.1(m), where at least half the Front Lot Line is curved and the landscaped area of the Front Yard is less than 50%, the following exemptions for the calculation of the gross area of the Front Yard shall apply and provided all the remaining area shall be landscaped excluding concrete, asphalt, gravel, pavers or other similar materials:
 - (1) A driveway between the front entrance of the garage and the Front Lot Line with maximum width of 3.0 metres for each door of a one, two or three car garage or 5.5 metres for a double door of a two car garage; and,
 - (2) A walkway between the front entrance of the principle dwelling and the Front Lot Line or driveway with a maximum width of 0.6 metres;
 - (iii) A maximum one driveway shall be permitted for each lot containing a Secondary Dwelling Unit; and,

- (iv) Notwithstanding Section 5.43.1(m)(iii), for a corner lot, a maximum of one driveway may be permitted from each street frontage.
- (n) A Secondary Dwelling Unit – Detached shall only be permitted in a Rear and interior Side Yard. In the case of a through lot, a Secondary Dwelling Unit – Detached shall not be permitted in any yard abutting a street.
- (o) The exterior appearance and character of the front façade of the Single Detached Dwelling, Semi-Detached Dwelling or Street Townhouse Dwelling shall be preserved.
- (p) There shall be no outside stairway above the first floor other than a required exterior exit.
- (q) Any separate entrance and exit to the Secondary Dwelling Unit shall be oriented toward the Flankage Lot Line, interior Side Lot Line or Rear Lot Line.
- (r) A minimum landscaped area shall be provided and maintained in the rear yard for each Secondary Dwelling Unit – Detached on the lot, in accordance with the following provisions:
 - i) A landscaped area of 8.0 square metres for each dwelling unit less than 50.0 square metres; and,
 - ii) An landscaped area of 12.0 square metres for each dwelling unit 50.0 square metres or more.
- (s) A Secondary Dwelling Unit – Detached is not permitted within a swale or ditch.

5.43.3 Secondary Dwelling Unit - Detached

- (a) A legally established accessory building existing as of May 12, 2021 in a Residential Zone may be converted to a Secondary Dwelling Unit - Detached on a lot containing a single detached dwelling, semi-detached dwelling, and street townhouse dwelling shall be subject to the following provisions:
 - i) The number of required parking spaces for the principal dwelling shall be provided and maintained on the lot in accordance with the applicable provisions of this by-law.

- ii) Any additions over 10% of the existing gross floor area of the legally established accessory building to create a Secondary Dwelling Unit – Detached shall be in accordance with Subsections 5.43.1 (b), (d), (e), (g) to (n) inclusive, (r), and (s) and Subsections 5.43.3 (b) of this Zoning By-law;
- (b) A Secondary Dwelling Unit – Detached in a Residential Zone shall be subject to the following provisions:
- i) Section 5.30 – Yard Encroachments for Sills, belt courses, cornices, chimney breasts, bay windows, pilasters, eaves or gutters shall apply.
 - ii) A minimum 1.2 metres interior Side Yard shall be provided which shall be unobstructed and not contain structures, walkways, sidewalks, hard surfaced material, and landscaping other than sod.
 - iii) A minimum 1.2 metres Rear Yard shall be provided which shall be unobstructed and not contain structures, walkways, sidewalks, hard surfaced material, and landscaping other than sod.
 - iv) A minimum setback from a Swale, Ditch or Drainage Management System measured from the upper most interior edge of the swale's slope of 1.0 metres shall be provided and maintained.
 - v) A maximum height of 6.0 metres shall be permitted.
 - vi) The maximum gross floor area shall not exceed the lesser of 75.0 square metres or the Gross Floor Area of the Single Detached Dwelling, the Semi-Detached Dwelling Unit or the Street Townhouse Dwelling Unit.
 - a) For the purpose of this regulation, a Gross Floor Area shall not exclude the horizontal area of any cellar, attic, enclosed parking area, enclosed loading area, or any unenclosed porch, verandah, balcony, or similar structure.
 - vii) A minimum distance of 7.5 metres shall be required between the rear façade of principal dwelling and Secondary Dwelling Unit – Detached.

- viii) Where a Secondary Dwelling Unit – Detached is located in an Interior Side Yard;
 - i) A minimum distance of 4.0 metres shall be provided between the principal dwelling and a Secondary Dwelling Unit – Detached; and,
 - ii) A Secondary Dwelling Unit – Detached shall be set back a minimum 5.0 metres from the front façade of the principal dwelling.
 - ix) An unobstructed path with a minimum 1.0 metre width and minimum 2.1 metres height clearance from a Front Lot Line or a Flankage Lot Line to the entrance of the Secondary Dwelling Unit – Detached shall be provided and maintained.
 - x) Balconies and rooftop patios are prohibited above the first storey.
 - xi) Each of the landscaped areas in Subsection 5.43.2r) shall be screened on two sides by a visual barrier that has a minimum height of 0.3 metres.”
3. That **SECTION 6 – URBAN RESIDENTIAL (SINGLE DETACHED) ZONE (R1)** be amended by adding the following new Subsection:
- “6.2.3 ZONE PROVISIONS FOR SECONDARY DWELLING UNITS AND SECONDARY DWELLING UNITS – DETACHED
- (a) The use shall comply with the provisions of Section 5.43.”
4. That **SECTION 9 – URBAN RESIDENTIAL (SEMI-DETACHED AND LINK) ZONE (R4)** be amended by adding the following new Subsection:
- “9.2.3 ZONE PROVISIONS FOR SECONDARY DWELLING UNITS AND SECONDARY DWELLING UNITS – DETACHED
- (a) The use shall comply with the provisions of Section 5.43.”
5. That **SECTION 10 – CORE AREA RESIDENTIAL ZONE (R5)** be amended as follows:
- 5.1 By deleting Subsection 10.1(e) – Converted Dwelling (maximum 3 dwelling units).

5.2 By adding a new Subsection as follows:

“10.2.3 ZONE PROVISIONS FOR SECONDARY DWELLING UNITS AND
SECONDARY DWELLING UNITS – DETACHED

(a) The use shall comply with the provisions of Section 5.43.”

6. That **SECTION 11 – MEDIUM DENSITY RESIDENTIAL ZONE (R6)** be amended by adding the following new Subsection:

“11.2.3 ZONE PROVISIONS FOR SECONDARY DWELLING UNITS AND
SECONDARY DWELLING UNITS – DETACHED

(a) The use shall comply with the provisions of Section 5.43.”

7. That **SECTION 17 – URBAN COMMERCIAL ZONE (UC)** be amended by amending the following Subsection as follows:

7.1 Permitted Uses:

e) Secondary Dwelling Units and Secondary Dwelling Units – Detached, subject to the provisions of Subsection 5.43.”

8. That the Clerk is hereby authorized and directed to proceed with the giving of notice of passing of this By-law, in accordance with the *Planning Act*.

9. 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*.

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

PASSED this 12th day of May, 2021.

F. Eisenberger
Mayor

A. Holland
City Clerk