

**Authority:** Item 9, Planning Committee  
Report: 14-014 (PED14161)  
CM: September 24, 2014

**Bill No. 273**

**CITY OF HAMILTON**

**BY-LAW NO. 14-273**

**To Amend Zoning By-law No. 05-200  
Respecting General Text Amendments for Community Gardens and Urban Farms**

**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 By-law No. 05-200;

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

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item 9 of Report 14-014 of the Planning Committee, at its meeting held on the 24th day of September, 2014, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

**AND WHEREAS** the Urban Hamilton Official Plan was declared in force and effect on August 16, 2013 and is the Official Plan in effect for lands within the Urban Area of the City of Hamilton;

**AND WHEREAS** this By-law will be in conformity with the Urban Hamilton Official Plan of the City of Hamilton upon approval of Official Plan Amendment No. 31.

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

1. That **SECTION 3: DEFINITIONS** of By-law 05-200 is amended by adding the following new definitions:
  - (a) "Community Garden" shall mean land used for the growing and harvesting of plants, grains, vegetables or fruits and provided the crops are for the sole use, donation or consumption by the individual or individuals growing or working the community garden. It shall not be considered as landscaped area, landscape open space, landscaped strip or landscaping.

- (b) “Farm Produce/Product Stand” shall mean a building or structure used for the sale of fresh fruit, vegetables, grains, and edible plants which are grown on an urban farm on a seasonal basis. Products derived from the urban farm produce may also be sold.
- (c) “Urban Farm” shall mean land that is used for the growing and harvesting of edible plants, grains, vegetables or fruits and that the edible plants, grains, fruits and vegetables grown on-site may be sold on-site. It may include structures such as *farm produce/product stand*, greenhouses, hoop houses or cold frames. It shall not include a medical marihuana growing and harvesting facility, an aquaponics, or aquaculture facility, or a mushroom operation. It shall not be considered as landscaped area, landscape open space, landscaped strip or landscaping.
2. That **SECTION 4: GENERAL PROVISIONS** of By-law 05-200 be amended by adding the following new Subsections:

**SUBSECTION 4.26 – URBAN FARM**

- (a) Every urban farm, as a principle use, shall comply with the following:
- 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 f), 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.
  - 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:

	<b>Street</b>	<b>From</b>	<b>To</b>
i)	Wilson Street	Dalley Drive	Rousseaux Street
ii)	Dundas Street	York Road	Market Street

	<b>Street</b>	<b>From</b>	<b>To</b>
	(Dundas)		
iii)	Mill Street	Church Street	Highway 5
iv)	Binbrook Road	Highway 56	2553 Binbrook Road
	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
iv)	Kenilworth Avenue North	Barton Street	Main Street East
v)	Ottawa Street North	Barton Street	Main Street East
vi)	Barton Street East	Sherman Avenue North	Wellington Street North
vii)	Concession Street	East 33rd Street	East 15th Street

#### **SUBSECTION 4.2 – 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 principle building in the following areas:

	<b>Street</b>	<b>From</b>	<b>To</b>
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

	Street	From	To
			Avenue
iv)	Locke Street	Main Street West	Herkimer Street
iv)	Kenilworth Avenue North	Barton Street	Main Street East
v)	Ottawa Street North	Barton Street	Main Street East
vi)	Barton Street East	Sherman Avenue North	Wellington Street North
vii)	Concession Street	East 33rd Street	East 15th Street

3. That **SUBSECTION 6.3.1 – PERMITTED USES** of **SECTION 6.3 - DOWNTOWN MIXED USE (D3) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

4. That **SUBSECTION 6.3.3 – REGULATIONS** of **SECTION 6.3 - DOWNTOWN MIXED USE (D3) ZONE** of By-law No. 05-200, is amended by adding the following two new provisions, as follows:

m) Urban farm	i) Shall only be permitted in the rear yard or on the roof-top of the principle building:
	ii) In accordance with Subsection 4.26 (c).
n) Community garden	i) Shall only be permitted in the rear yard or on the roof-top of the principle building

5. That **SUBSECTION 6.4.1 – PERMITTED USES** of **SECTION 6.4 - DOWNTOWN LOCAL COMMERCIAL (D4) ZONE** of By-law No. 05-200, is amended by adding two new uses, as follows:

- (a) urban farm;
- (b) community garden

6. That **SUBSECTION 6.4.3 – REGULATIONS** of **SECTION 6.4 - DOWNTOWN LOCAL COMMERCIAL (D4) ZONE** of By-law No. 05-200, is amended by adding two new provisions as follows:

m) Urban farm	i) Shall only be permitted in the rear yard or on the roof-top of the principle building:
	ii) In accordance with Subsection 4.26 (c)
n) Community garden	i) Shall only be permitted in the rear yard or on the roof-top of the principle building

7. That **SUBSECTION 6.5.1 – PERMITTED USES** of **SECTION 6.3 - DOWNTOWN RESIDENTIAL (D5) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

8. That **SUBSECTION 6.5.2 – REGULATIONS** of **SECTION 6.5 - DOWNTOWN RESIDENTIAL (D5) ZONE** of By-law No. 05-200, is amended by adding two new provisions, as follows:

- (a) 6.5.2.6 Urban Farm Regulations In accordance with the requirements of Section 4.26 of this by-law
- (b) 6.5.2.7 Community Garden Regulations In accordance with the requirements of Section 4.27 of this by-law

9. That **SUBSECTION 6.6.1 – PERMITTED USES** of **SECTION 6.6 - DOWNTOWN MULTIPLE RESIDENTIAL (D6) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

10. That **SUBSECTION 6.6.2 – REGULATIONS** of **SECTION 6.6 - DOWNTOWN MULTIPLE RESIDENTIAL (D6) ZONE** of By-law No. 05-200, is amended by adding two new provisions, as follows:

- |     |         |                              |  |
|-----|---------|------------------------------|--|
| (a) | 6.6.2.6 | Urban Farm Regulations       | In accordance with the requirements of Section 4.26 of this by-law |
| (b) | 6.6.2.7 | Community Garden Regulations | In accordance with the requirements of Section 4.27 of this by-law |

11. That **SUBSECTION 7.1.1 – PERMITTED USES** of **SECTION 7.1 - NEIGHBOURHOOD PARK (P1) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

12. That **SUBSECTION 7.1.3 – REGULATIONS** of **SECTION 7.1 - NEIGHBOURHOOD PARK (P1) ZONE** of By-law No. 05-200, is amended by adding two new provisions, as follows:

e) Urban farm	In accordance with the requirements Section 4.26 of this by-law.
f) Community garden	In accordance with Section 4.27

13. That **SUBSECTION 7.2.1 – PERMITTED USES** of **SECTION 7.2 - COMMUNITY PARK (P2) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

14. That **SUBSECTION 7.2.2 – REGULATIONS** of **SECTION 7.2 - COMMUNITY PARK (P2) ZONE** of By-law No. 05-200, is amended by adding two new provisions, as follows:

d) Urban farm	In accordance with the requirements Section 4.26 of this by-law.
e) Community garden	In accordance with Section 4.27

15. That **SUBSECTION 7.3.1 – PERMITTED USES** of **SECTION 7.3 - CITY WIDE PARK (P3) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

16. That **SUBSECTION 7.3.3 – REGULATIONS** of **SECTION 7.3 – CITY WIDE PARK (P3) ZONE** of By-law No. 05-200, is amended by adding two new provisions, as follows:

e) Urban farm	In accordance with the requirements Section 4.26 of this by-law.
f) Community garden	In accordance with Section 4.27

17. That **SUBSECTION 7.4.1 – PERMITTED USES** of **SECTION 7.4 - OPEN SPACE (P4) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

18. That **SUBSECTION 7.4.2 – REGULATIONS** of **SECTION 7.4 – OPEN SPACE (P4) ZONE** of By-law No. 05-200, is amended by adding two new provisions as follows:



e) Urban farm	In accordance with the requirements Section 4.26 of this by-law.
f) Community garden	In accordance with Section 4.27

19. That **SUBSECTION 8.1.1 – PERMITTED USES** of **SECTION 8.1 - NEIGHBOURHOOD INSTITUTIONAL (I1) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

20. That **SUBSECTION 8.1.3 – REGULATIONS** of **SECTION 8.1 NEIGHBOURHOOD INSTITUTIONAL (I1) ZONE** of By-law No. 05-200, is amended by adding two new provisions as follows:

- (a) 8.1.3.5 Urban Farm Regulations In accordance with the requirements of Section 4.26 of this by-law
- (b) 8.1.3.6 Community Garden Regulations In accordance with the requirements of Section 4.27 of this by-law

21. That **SUBSECTION 8.2.1 – PERMITTED USES** of **SECTION 8.2 - COMMUNITY INSTITUTIONAL (I2) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:

- (a) urban farm;
- (b) community garden

22. That **SUBSECTION 8.2.3 – REGULATIONS** of **SECTION 8.2 COMMUNITY INSTITUTIONAL (I2) ZONE** of By-law No. 05-200, is amended by adding two new provisions as follows:
- |     |         |                              |  |
|-----|---------|------------------------------|--|
| (a) | 8.2.3.6 | Urban Farm Regulations       | In accordance with the requirements of Section 4.26 of this by-law |
| (b) | 8.2.3.7 | Community Garden Regulations | In accordance with the requirements of Section 4.27 of this by-law |
23. That **SUBSECTION 8.3.1 – PERMITTED USES** of **SECTION 8.3 - MAJOR INSTITUTIONAL (I3) ZONE** of By-law No. 05-200, is amended by adding two new uses as follows:
- |     |                  |
|-----|------------------|
| (a) | urban farm;      |
| (b) | community garden |
24. That **SUBSECTION 8.3.3 – REGULATIONS** of **SECTION 8.3 MAJOR INSTITUTIONAL (I3) ZONE** of By-law No. 05-200, is amended by adding two new provisions as follows:
- |     |         |                              |  |
|-----|---------|------------------------------|--|
| (a) | 8.3.2.5 | Urban Farm Regulations       | In accordance with the requirements of Section 4.26 of this by-law |
| (b) | 8.3.3.6 | Community Garden Regulations | In accordance with the requirements of Section 4.27 of this by-law |
25. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

26. That this By-law No. 14-273 shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

**PASSED** this 24<sup>th</sup> day of September, 2014.

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R. Bratina  
Mayor

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R. Caterini  
City Clerk

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