

**Authority:** Item 6, Planning Committee  
Report 15-004 (PED15028)  
CM: March 11, 2015

**Bill No. 069**

## **CITY OF HAMILTON**

### **BY-LAW NO. 15-**

#### **To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Modifications and Updates**

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the Town of Flamborough" and is the successor to the former regional municipality, namely, The Regional Municipality of Hamilton-Wentworth;

**AND WHEREAS** the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5<sup>th</sup> day of November 1990, and approved by the Ontario Municipal Board on the 21<sup>st</sup> day of December, 1992;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item 6 of Report 15-004 of the Planning Committee, at its meeting held on the 11<sup>th</sup> day of March, 2015, recommended that Zoning By-law No. 90-145-Z (Flamborough) be amended as hereinafter provided;

**AND WHEREAS** the Rural Hamilton Official Plan was declared in force and effect on March 7, 2012 and is the Official Plan in effect for lands within the Rural Area of the City of Hamilton;

**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 is in conformity with the Rural Hamilton Official Plan and Urban Hamilton Official Plan;

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

1. That **SECTION 2: ADMINISTRATION AND ENFORCEMENT** be amended by revising Subsection **2.1 ADMINISTRATION** to read as follows:

This By-law shall be administered by the City's Director, Building Division, Chief Building Official.

2. That **SECTION 3: DEFINITIONS** is amended:

- (a) by deleting and replacing the definition of deck:

***Deck*** shall mean a structure accessory to a building with or without roof or walls, which may include visual partitions and railings, and is constructed on piers or a foundation at a minimum of 0.15 metres above-grade.

- (b) by deleting and replacing the definition of height:

***Height*** shall mean the vertical distance from grade to the uppermost point of the building but not including any mechanical penthouse or any portion of a building designed, adapted or used for such features as a chimney, smokestack, fire wall, stair tower, fire tower, water tower, tank, elevator bulkhead, ventilator, skylight, cooling tower, derrick, conveyor, antenna, or any such requisite appurtenance, or a flagpole, display sign, ornamental figure, parapet, bell tower or other similar structure. Provided, however, where this By-law requires building height to be calculated to determine a minimum rear yard or a minimum side yard requirement, building height shall mean the vertical distance between the lowest finished grade elevation along the lot line related to such required yard at that point closest to the building and the horizontal extension of the uppermost point of the building.

- (c) by deleting and replacing the definition of lot coverage:

***Lot coverage*** shall mean the percentage of the lot covered by all buildings, but shall not include swimming pools and decks.

3. That **SECTION: 5 GENERAL PROVISIONS** is amended:

- (a) by deleting and replacing clause (e) of Subsection 5.2.3 Yard Requirements in Subsection 5.2 ACCESORY USES to read as follows:

- (e) 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:

- i) 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,
  - ii) 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.
- (b) by deleting and replacing clause 5.4.4 Location of Subsection 5.4 DWELLING UNITS to read as follows:

5.4.4 Location

Dwelling units located in a basement or cellar must be in accordance with the requirements of the Ontario Building Code and all other relevant municipal standards and regulations.

- (c) by adding a new clause to Subsection 5.21 PARKING REGULATIONS as follows:

5.21.2 Calculation of Parking Requirements

5.21.2.4 Notwithstanding Subsection 5.21.1 above, for any permitted commercial use(s) within the Business District “BD” Zone, except “Clinic or Office of Physical or Medical Health Practitioner, Physician or Dentist,” located in all or part of a building existing on the effective date of this By-law, no parking spaces are required provided that the number of parking spaces which existed on the effective date of this By-law shall continue to be provided and maintained. Where an addition or expansion of an existing building is proposed, the parking requirements of Section 5.21.1 above, shall only apply to the commercial use or uses contained within the increased gross floor area.

- (d) by renumbering 5.37 Outdoor Commercial Patios as 5.38 and revising the introduction and clause b) of the Subsection to read as follows:

5.38 OUTDOOR COMMERCIAL PATIOS

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:

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.

- (e) by renumbering 5.37 URBAN FARM as 5.39 and replacing all references in the By-law to 5.37 with 5.39.
- (f) by renumbering 5.38 COMMUNITY GARDENS as 5.40 and replacing all references in the By-law to 5.38 with 5.40.
- (g) by adding a new Subsection 5.41:

5.41 **COMMON ELEMENTS CONDOMINIUMS**

Notwithstanding the regulations of the “R6” Zone, townhouse dwelling units may be developed in accordance with the applicable street townhouse regulations of the “R6” Zone. For the purposes of this Zone, the private driveway(s) or condominium road(s) are deemed to be a street(s) and parking and landscaping are permitted within the street(s).

- 4. 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.

**PASSED** this 11<sup>th</sup> day of March, 2015.

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Fred Eisenberger  
Mayor  
CI-14-H

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Rose Caterini  
City Clerk