

***Tracking Amendments to the
Site Plan Control By-law***

CITY OF HAMILTON

BY-LAW NO. 15-176

**TO CONSOLIDATE AND UPDATE SITE PLAN CONTROL BY-LAWS IN THE CITY
OF HAMILTON**

WHEREAS, under the provisions of Section 41 of the Planning Act, a Council of a Municipality may by by-law designate the whole or any part of the Municipality as a Site Plan Control Area:

AND WHEREAS the City of Hamilton passed Site Plan Control By-law No. 03-294, as amended by By-laws 08-298 and 14-323 and the purpose of this By-law is to update and consolidate the three existing Site Plan Control By-laws;

AND WHEREAS the Rural Hamilton Official Plan and Urban Hamilton Official Plan in effect for the City of Hamilton that describe a proposed site plan control area and contain policies related to Site Plan Control;

AND WHEREAS it is desirable that the policies of the Official Plans be applied to the proposed site plan control area by way of a designation and implementation by-law;

**NOW THEREFORE THE COUNCIL OF THE CITY OF HAMILTON ENACTS AS
FOLLOWS:**

1.0 In this section:

- 1.1 "Abattoir" as defined in Zoning By-law No.05-200;
- 1.2 "Adjacent" means development located within 120 metres of a Core Area, except where bisected by a municipal road, or active rail corridor.
- 1.3 "Agricultural Brewery/Cidery/Winery" as defined in Zoning By-law No.05-200;
- 1.4 "Agricultural Processing Establishment – Stand Alone" as defined in Zoning By-law No.05-200;

- 1.5 "Agricultural Storage Establishment" as defined in Zoning By-law No.05-200;
- 1.6 "Agri-tourism" as defined in Zoning By-law No.05-200;
- 1.7 "City" means City of Hamilton.
- 1.8 "Core Area" means key natural heritage features, key hydrologic features, local natural areas, and their vegetation protection zones as indicated on Schedule "B" – Natural Heritage System of the Rural Hamilton Official Plan and Schedule "B" – Natural Heritage System of the Urban Hamilton Official Plan.
- 1.9 "Development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined by subsection ~~168(5)~~ 164(4) of the Municipal Act or of sites for the location of three or more mobile homes as defined in ~~in~~ subsection 46(1) of the Planning Act.
- 1.10 "Farm Product Supply Establishment" as defined in Zoning By-law No.05-200;
- 1.11 "Kennel" as defined in Zoning By-law No.05-200;
- 1.12 "Land Titles Act" means the Land Titles Act, R.S.O. 1990, c. L. 5, as amended.
- 1.13 "Livestock Assembly Point" as defined in Zoning By-law No.05-200;
- 1.14 Medical Marihuana Growing and Harvesting Facility as defined in Zoning By-law No.05-200;
- 1.15 "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 1.16 "Ontario Heritage Act" means the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended.
- 1.17 "owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the Registry or Land Titles Office, and

- 1.18 "person" includes an owner.
- 1.19 "Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended.
- 1.20 "Registry Act" means the Registry Act, R.S.O. 1990, c. R.20, as amended.
- 2.0 The whole of the area within the corporate limits of the City of Hamilton is hereby designated as a Site Plan Control Area.
- 3.0 No person shall undertake any development in the site plan control area unless:
 - 3.1 Council of the City or persons to whom authority has been delegated has approved of the following:
 - 3.1.1 plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith, and of all facilities and works required as a condition of approval under Section 41 of the Planning Act, including commercial parking lots and sites for the location of three or more trailers and/or mobile homes, and facilities designated to have regard for accessibility for persons with disabilities, and showing the location of any *Core Area(s)*;
 - 3.1.2 drawings showing plan, elevation and cross-section views for each building to be erected, including any residential building containing more than 2 dwellings units, which are sufficient to display:
 - 3.1.2.1 the massing and conceptual design of the proposed building;
 - 3.1.2.2 the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;
 - 3.1.2.3 the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings;
 - 3.1.2.4 matters relating to exterior design, including without limitation the character, scale, appearance and design features of building, and their sustainable design, but only to the extent that it is a matter of exterior design;

- 3.1.2.5 the sustainable design elements on any adjoining highway under the City's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities; and,
 - 3.1.2.6 facilities designed to have regard for accessibility for persons with disabilities, but which exclude matters relating to interior design, the layout of interior areas, other than the interior walkways, stairs, elevators and escalators referred to in Clause 3.1.2.3, and the manner of construction and standards for construction.
- 3.2 Prior to the submission of any application for approval of development within the site plan control area, the owner formally consults with Council of the City or persons to whom authority has been delegated, for the purpose of identifying the need for and scope of any other information and materials considered necessary by the City and other affected agencies to allow full consideration of the development application.
 - 3.2.1 Notwithstanding Subsection 3.2 of this By-law, this requirement may be waived where the Council of the City or persons to whom authority has been delegated determines in his or her discretion that no reasonable purpose would be served by such a consultation due to the nature of the application."
- 4.0 As a condition of approval of the plans and drawings referred to in Subsection 3.1, the City may require the owner to enter into an agreement or undertaking with the City imposing any conditions permitted by Section 41 of the Planning Act.
- 5.0 Notice of any agreement or undertaking entered into under clause 4.0 above may be registered against the land to which it applies and the municipality may enforce the provisions thereof against the owner and, subject to the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.
- 6.0 Where the owner is required by this by-law or by any agreement or undertaking entered into pursuant hereto to do or ensure that any matter or thing be done and such person defaults in doing such matter or thing, the same may be done by the City and the expense of so doing may be recovered by action or in like manner as municipal taxes.

- 7.0 No building permit or permits shall be issued until the Owner has received approval from the City pursuant to Section 41 of the Planning Act and this By-law.
- 8.0 Subject to Section 9.0 below, the provisions of this by-law do not apply to:
- 8.1 any single detached dwelling, duplex dwelling or semi-detached dwelling;
 - 8.2 any building accessory to the uses described in paragraph 8.1 above;
 - 8.3 any street townhouse building within a registered plan of subdivision for which the subdivision agreement is in full force and effect; and
 - 8.4 any agricultural building or structure.
- 9.0. Notwithstanding Section 8.0 above, the provisions of this by-law shall apply to the following:
- 9.1 any buildings or structures, including accessory buildings and structures, decks, and additions to existing buildings, situated Adjacent to or within a Core Area(s), except for single detached, duplex, semi-detached or street townhouse dwellings located within a plan of subdivision or plan of condominium draft approved after January 1, 2013,
 - 9.2 any single detached dwelling, duplex dwelling and semi-detached dwelling, including accessory buildings and structures, decks, and additions, forming part of the zero lot line development shown on the map attached to and forming part of this by-law as Schedule "A";

Amendment #1: *By-law No. 18-104*

Deleted the existing Subsection 9.3 and replaced it with a new subsection (to expand the provisions of the Site Plan Control By-law to the Ancaster "ER" Zone).

- ~~9.3 any single detached dwelling, duplex dwelling and semi-detached dwelling, including accessory buildings and structures, decks, and additions, situated to the east and west of Beach Boulevard as shown on the map attached to and forming part of this by-law as Schedule "B";~~
- 9.3 *any single detached dwelling, duplex dwelling and semi-detached dwelling, including accessory buildings and structures, decks, and additions, for lands located:*

- (i) east and west of Beach Boulevard, as shown on the maps attached to and forming part of this by-law as Schedules "B1" to "B3";
- (ii) in certain residential areas of Ancaster, as shown on the maps attached to and forming part of this by-law as Schedules "C1" to "C13", subject to the provisions of Subsection 9.13.

Amendment #3: By-law No. 21-XXX

To delete the existing Subsection 9.3 (ii) and replace it with a new subsection (to modify and expand on the criteria for the provision of site plan control in the Ancaster "ER" Zone).

- (ii) ***in certain residential areas of Ancaster, as shown on the maps attached to and forming part of this by-law as Schedules "C1" to "C13", in accordance with the following provisions:***
 - a) ***The construction of a single detached dwelling, duplex dwelling or semi-detached dwelling that is not a reconstruction, as per Subsection 9.3 (ii) j.***
 - b) ***An addition to a single detached dwelling, duplex dwelling or semi-detached dwelling if the ground floor area of the addition is greater than or equal to 50 percent of the ground floor area of the dwelling existing on February 14, 2019.***
 - c) ***The reconstruction of a single detached dwelling, duplex, dwelling or semi-detached dwelling if the ground floor area of the reconstructed dwelling is greater than or equal to 50 percent of the ground floor area of the dwelling existing on February 14, 2019.***
 - d) ***Notwithstanding Subsection 9.3 (ii) b), if a dwelling was previously subject to the provisions of Subsection 9.3 (ii), the ground floor area of said addition shall be measured against the ground floor area of the dwelling as shown on the site plan approved on the date of Site Plan approval. If the provisions of Subsection 9.3 (ii) have been applied on more than one occasion, the most recent Site Plan approval date shall apply.***
 - e) ***Notwithstanding Subsection 9.3 (ii) c), if a dwelling was previously subject to the provisions of Subsection 9.3 (ii), the ground floor area of said reconstructed dwelling shall***

be measured against the ground floor area of the dwelling as shown on the site plan approved on the date of Site Plan approval. If the provisions of Subsection 9.3 (ii) have been applied on more than one occasion, the most recent Site Plan approval date shall apply.

- f) The following buildings or structures if greater than 40 square metres ground floor area:***
 - 1) Accessory buildings; and,***
 - 2) Detached Secondary Dwelling Units.***
- g) On lots with a maximum lot coverage of 35 percent, development that results in a lot coverage that exceeds the maximum permitted.***
- h) For the purpose of Subsection 9.3 (ii), the ground floor area shall include the area covered by attached garages, attached carports, unenclosed porches, and stairs, but shall not include decks.***
- i) For the purpose of Subsection 9.3 (ii) b), an addition shall mean the expansion of a dwelling that has the effect of increasing the ground floor area of said dwelling, but shall not include the expansion of a reconstructed dwelling.***
- j) For the purpose of Subsection 9.3 (ii) c), reconstruction shall mean a dwelling built on all or part of an existing foundation and any additions or alterations to said foundation, and may include existing ground floor walls as part of the reconstruction.***

9.4 any single detached dwellings, duplex dwellings and semi-detached dwellings, including accessory buildings and structures, decks, and additions, forming part of a linked housing or similar innovative house grouping development as described in the City's Official Plans, any approved Neighbourhood Plan or any other planning policy document approved by the City. Any development proposing to locate multiple single, semi or duplex dwellings on a single parcel of land is hereby deemed to be an innovative house grouping development within the meaning of this clause 9.4,

9.5 commercial and agricultural greenhouses, including structures used for aquaponics or hydroponics or similar buildings and structures;

- 9.6 aquaponics facility and medical marihuana growing and harvesting facility and buildings and structures;
- 9.7 mushroom operation buildings and structures;
- 9.8 kennel buildings and structures;
- 9.9 agri-tourism buildings and structures with a gross floor area greater than 500 square metres;
- 9.10 Agricultural Brewery/Cidery/Winery buildings and structures;
- 9.11 the following Agricultural-Related commercial or industrial uses, and buildings and structures, provided they are not located on the same lot as an agricultural use: Abattoir; Agricultural Processing Establishment – Stand Alone; Agricultural Storage Establishment; Farm Product Supply Establishment; and, Livestock Assembly Point;
- 9.12 any building or structure that requires the use of a septic tank and is located in Vulnerable Area 1 for Source Protection, as described in the City's Official Plans and Zoning By-law No. 05-200.

Amendment #2: By-law No. 19-026
Introduced a new Subsection 9.13.
(criteria for the provision of site plan control in the Ancaster "ER" Zone)

- 9.13 *Buildings or structures subject to the following:*
 - 9.13.1 *any new single detached dwelling, duplex dwelling, and semi-detached dwelling;*
 - 9.13.2 *an addition or alteration to an existing dwelling, if the ground floor area of the addition is greater than or equal to 50 percent of the ground floor area of the existing dwelling. For the purpose of this By-law, ground floor area shall include the area covered by ground floor balconies, porches, and stairs;*
 - 9.13.3 *accessory buildings or structures, if greater than or equal to 40 square metres ground floor area; and,*

9.13.4 on lots with a maximum lot coverage of 35 percent, an addition and / or accessory building or structure that results in a lot coverage that exceeds 35 percent.

Amendment #3: Draft By-law No. 21-XXX
Will delete Subsection 9.13 in its entirety.
(criteria relocated to the new Subsection 9.3 (ii)).

~~9.13 Buildings or structures subject to the following:~~

~~9.13.1 any new single detached dwelling, duplex dwelling, and semi-detached dwelling;~~

~~9.13.2 an addition or alteration to an existing dwelling, if the ground floor area of the addition is greater than or equal to 50 percent of the ground floor area of the existing dwelling. For the purpose of this By-law, ground floor area shall include the area covered by ground floor balconies, porches, and stairs;~~

~~9.13.3 accessory buildings or structures, if greater than or equal to 40 square metres ground floor area; and,~~

~~9.13.4 on lots with a maximum lot coverage of 35 percent, an addition and / or accessory building or structure that results in a lot coverage that exceeds 35 percent.~~

10.0 The Mayor and the Clerk, or delegate, as the case may be, are hereby authorized to execute any agreement or undertaking prepared pursuant to Section 4.0 of this by-law and signed by the owner or developer of the affected land, provided that Council or persons with delegated authority have approved the plans and drawings required to be submitted under Section 3.0 of this by-law.

11.0 By-law Nos. 03-294, 08-298 and 14-323 are hereby repealed in their entirety.

PASSED this 14th day of August, 2015.

Brenda Johnson
Deputy Mayor

Rose Caterini
City Clerk