

Authority: Item 9, Planning Committee
Report 21-006 (PED20093(a))
CM: April 28, 2021
Ward: 1, 2, 3, 4, 5, 6, 7, 8, 14
Bill No. 076

**CITY OF HAMILTON
BY-LAW NO. 21-076**

**To Amend Zoning By-law No. 6593 (Hamilton)
Respecting 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 Subsection 18(A).(1)(a)(i) Table 1 – Minimum Required Parking for Residential, Institutional, Public and Commercial Uses of SECTION 18A: PARKING AND LOADING REQUIREMENTS be amended by adding the following new clause:

1. Residential Uses	
(n) Secondary Dwelling Unit Secondary Dwelling Unit - Detached	1 space per unit

2. That Subsection 19.(1) of SECTION 19: RESIDENTIAL CONVERSION REQUIREMENTS be deleted in its entirety and replaced with the following regulations:

19.(1) **Single detached, semi-detached, and street townhouse in all Residential Districts and “H” (Community Shopping and Commercial, etc.) District**

Notwithstanding anything contained in this By-law, any legally established single detached, semi-detached, and street townhouse dwelling in all Residential Districts, and “H” (Community Shopping and Commercial, etc.) District may be converted to contain not more than a total of three dwelling units on one lot, provided all of the following requirements are complied with:

- (i) For the purposes of Section 19.1(1), the following definitions shall apply:

1. **Ditch** means a small to moderate excavation created to channel water.
 2. Notwithstanding Section 4(3)(d), a **Laneway** means a public highway or road allowance having a width of less than 12.0 metres, and where it abuts a residential lot, the residential lot shall be identified as an interior lot and not a through lot.
 3. **Lot Line, Flankage** means a lot line other than a front lot line that abuts a street.
 4. **Secondary Dwelling Unit** means a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling.
 5. **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.
 6. **Swale** means a graded or engineered landscape feature appearing as a linear, shallow, open channel to provide for water drainage.
 7. **Yard, Flankage** means a yard extending from the front yard to the rear yard of a lot along a lot line which abuts a street measured to the nearest part of a building on a lot.
- (ii) Notwithstanding Subsection 18.(4)(iv), a Secondary Dwelling Unit – Detached shall only be considered as an accessory building for the purposes of Lot Coverage as required in Section 18(4)(iv).
 - (iii) For lands within a Residential District or “H” (Community Shopping and Commercial, etc.) District, a maximum of one Secondary Dwelling Unit shall be permitted within a Single Detached Dwelling, a Semi-Detached Dwelling or Street Townhouse Dwelling.
 - (iv) For lands within a Residential District or “H” (Community Shopping and Commercial, etc.) District, 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.
 - (v) A Secondary Dwelling Unit shall not be permitted in a cellar.
 - (vi) A Secondary Dwelling Unit or a Secondary Dwelling Unit – Detached shall have a maximum of two bedrooms.

- (vii) A Secondary Dwelling Unit – Detached shall not be permitted in a Front Yard or a Flankage Yard.
- (viii) A Secondary Dwelling Unit shall be permitted in each semi-detached or street townhouse dwelling unit on a non-severed lot.
- (ix) A single detached dwelling containing one Secondary Dwelling Unit, Secondary Dwelling Unit – Detached, or both, shall not be considered a duplex or triplex.
- (x) 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 three-family dwelling or multiple dwelling.
- (xi) 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 three-family dwelling or multiple dwelling.
- (xii) Parking shall be provided in accordance with Section 18(A) of this by-law.
- (xiii) Notwithstanding Section 19.(1)(xii), for a lot containing a Secondary Dwelling Unit and Secondary Dwelling Unit - Detached identified in Schedule “P” of Section 22, no additional parking space shall be required for any dwelling unit on a lot, provided the number of legally established parking spaces, which existed on May 12, 2021, shall continue to be provided and maintained;
 - 1. Sections 19.(1)(xiii) 2., 3. and 4. shall apply.
 - 2. Parking shall be provided to all lots containing a Secondary Dwelling Unit and Secondary Dwelling Unit - Detached in accordance with Sections 18(14), 18A(7), 18A(7a), 18A(9), 18A(14a) to 18A(14g), 18A (23) and 18A(31).
 - 3. A maximum one driveway shall be permitted for each lot containing a Secondary Dwelling Unit and Secondary Dwelling Unit - Detached; and,
 - 4. Notwithstanding Section 19.1(xiii)3., for a corner lot, a maximum of one driveway may be permitted from each street frontage.
- (xiv) A Secondary Dwelling Unit – Detached shall only be permitted in a Rear and interior Side Yard. Notwithstanding Subsection

2.(2)J.(xiii), in the case of a through lot, the front lot line shall be deemed to be the lot line where the front entrance of the existing principal dwelling faces, and the lot line opposite the front lot line shall be deemed the rear lot line, and all other lot lines shall be deemed the side lot lines.

- (xv) Except as provided in Subsection 19.(1)(xvii)1., the exterior appearance and character of the front façade of the Single Detached Dwelling, Semi-Detached Dwelling or Street Townhouse Dwelling shall be preserved.
- (xvi) There shall be no outside stairway above the first floor other than an required exterior exit.
- (xvii) 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.
- (xviii) Notwithstanding 19.(1)(xvii) one additional entrance may be located on the front façade of the building for properties identified in Schedule "P" of Section 22.
- (xix) 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:
 - 1. A landscaped area of 8.0 square metres for each dwelling unit less than 50.0 square metres; and,
 - 2. An landscaped area of 12.0 square metres for each dwelling unit 50.0 square metres or more.
- (xx) A Secondary Dwelling Unit – Detached is not permitted in a ditch or a swale.
- (xxi) Notwithstanding Section 19(1) of this By-law, a Building Permit for a Secondary Dwelling Unit may be issued in accordance with any minor variance, site specific zoning, 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-xxx was passed by Council, provided the Building Permit application complies with Zoning By-law 6593, as amended, that affected the lot before By-law No. 21-XXX came into effect. For the purposes of determining zoning conformity the following provisions shall apply:

1. This By-law is deemed to be modified to the extent necessary to permit a building or structure that is erected in accordance with Clause xx) above.
2. Once the permit or approval under Clause xx) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.

19.(1).1 **Regulations for Secondary Dwelling Unit - Detached**

- (i) A legally established accessory building existing as of the May 12, 2021 in a Residential District or “H” (Community Shopping and Commercial, etc.) District may be converted to a Secondary Dwelling Unit - Detached on a lot containing a single detached dwelling, semi-detached dwelling, and street townhouse dwelling subject to the following provisions:
 1. 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.
 2. 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 19.(1) ii), iv), vi) to xiv) inclusive, xix) xx), and xxi), and Subsections 19.(1).1 (ii) of this Zoning By-law;
- (ii) A Secondary Dwelling Unit – Detached in a Residential District or “H” (Community Shopping and Commercial, etc.) District shall be subject to the following provisions:
 1. Notwithstanding Section 18.3(vi), an eave or gutter of a Secondary Dwelling Unit – Detached may encroach into any required yard to a maximum of 0.45 metres.
 2. 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.
 3. 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.

4. Notwithstanding Section 19.(1).1(ii)3., permeable pavers may be permitted where a parking space and driveway abut a laneway or street.
5. Notwithstanding Section 19.(1).1(ii)3., where the SDU entrance faces the laneway, a minimum 0.3 metres Rear Yard shall be provided abutting a laneway.
6. 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.
7. A maximum height of 6.0 metres shall be permitted.
8. The maximum Gross Floor Area shall not exceed the lesser of 75.0 square metres or the Gross Floor Area of the principal Single Detached Dwelling, the Semi-Detached Dwelling Unit or the Street Townhouse Dwelling Unit.
9. A minimum distance of 7.5 metres shall be required between the rear façade of principal dwelling and Secondary Dwelling Unit – Detached.
10. 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.
11. The maximum lot coverage of all Accessory Buildings and a Secondary Dwelling Unit - Detached shall be 25% of the total lot area.
12. 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.
13. Balconies and rooftop patios are prohibited above the first storey.

14. Each of the landscaped areas in Subsection 19.(1)(xix) shall screened on two sides by a visual barrier that has a minimum height of 0.3 metres.
3. That Subsection 19.(4) of SECTION 19: RESIDENTIAL CONVERSION REQUIREMENTS be deleted in its entirety.
4. That Subsection 19.(5) of SECTION 19: RESIDENTIAL CONVERSION REQUIREMENTS be deleted in its entirety.
5. That Section 22: Restricted Areas By-laws Repealed is amended by repealing and replacing Schedule P identified in Schedule "A" to this By-law.
6. That the following by-laws be repealed in their entirety once the regulations, as set out in Subsections 1 to 5 of this By-law, come into full force and effect.
 - (i) By-law 19-307, the Temporary Use By-law respecting Secondary Dwelling Units for Certain Lands Bounded by Queen Street, Hamilton Harbour, the former Hamilton/Dundas Municipal boundary, Niagara Escarpment, Upper Wellington Street, the former Ancaster/Hamilton Municipal boundary, and the former Hamilton/Glanbrook Municipal boundary; and,
 - (ii) By-law 18-299 respecting Secondary Dwelling Units (Laneway Houses) for Certain Lands Bounded by Highway 403, Burlington Street, Red Hill Valley and the Escarpment.
7. 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*.
8. 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*.
9. 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

