

**Authority:** Item 9, Planning Committee  
Report 21-006 (PED20093(a))  
CM: April 28, 2021  
Ward: 13

**Bill No. 073**

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

**To Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Secondary Dwelling Unit Regulations in Dundas**

**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 3: DEFINITIONS** be amended by deleting the following Subsections:
  - i) Subsection 3.2.1 – Accessory Apartment
  - ii) Subsection 3.2.21 – Dwelling, Converted
2. That **SECTION 6: GENERAL REGULATIONS** be amended to include the following new subsection:

**“6.31 SECONDARY DWELLING UNITS AND SECONDARY DWELLING UNITS - DETACHED**

  - i) Notwithstanding Subsections 3.2.1, 3.2.21 and 3.2.56 and for the purposes of **SECTION 6.31 - SECONDARY DWELLING UNITS AND SECONDARY DWELLING UNITS - DETACHED**, the following definitions shall apply:
    - a) **Ditch** means a small to moderate excavation created to channel water.
    - b) **Laneway** means a public highway or road allowance having a width of less than 12.0 m, and where it abuts a residential lot, the residential lot shall be identified as an interior lot and not a through lot.
    - c) **Lot Line, Flankage** means a lot line other than a Front Lot Line that abuts a street.

- d) **Secondary Dwelling Unit** means a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling.
- e) **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.
- f) **Swale** means a graded or engineered landscape feature appearing as a linear, shallow, open channel to provide for water drainage.
- g) **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 Sections 6.2, 8.1.4.1, 9.1.4, 10.1.6, 10A1.2, 11.1.9.1, 11A.1.3, 12.1.6, a Secondary Dwelling Unit – Detached shall not be considered as an accessory building or structure.
- iii) Section 6.16 shall not apply to a Secondary Dwelling Unit – Detached.
- iv) For lands within a Residential Zone, Residential and Commercial Conversion (R.C.C) Zone, and the Single Detached Residential Zone: Cross – Melville Heritage District (RH-1) Zone, a maximum of one Secondary Dwelling Unit shall be permitted within a Single Detached Dwelling, a Semi-Detached Dwelling or Street Townhouse Dwelling.
- v) For lands within a Residential Zone, Residential and Commercial Conversion (R.C.C) Zone, and the Single Detached Residential Zone: Cross – Melville Heritage District (RH-1) 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.
- vi) A Secondary Dwelling Unit shall be permitted in each semi-detached or street townhouse dwelling unit on a non-severed lot.
- vii) A Secondary Dwelling Unit – Detached shall not be permitted in a Front Yard or a Flankage Yard.
- viii) A single detached dwelling containing one Secondary Dwelling Unit, Secondary Dwelling Unit – Detached, or both, shall not be considered a duplex or triplex.
- ix) A semi-detached dwelling containing one Secondary Dwelling Unit, one Secondary Dwelling Unit – Detached, or both, shall not be considered a triplex or apartment building.

- x) A street townhouse dwelling on one lot containing one Secondary Dwelling Unit, one Secondary Dwelling Unit – Detached, or both, shall not be considered a triplex or apartment building.
- xi) Parking shall be provided in accordance with Section 7 of this by-law.
- xii) Notwithstanding Section 7.1.1, parking for a Secondary Dwelling Unit and Secondary Dwelling Unit – Detached, may be provided in the required front yard in accordance with Section 7 of this by-law.
- xiii) Notwithstanding Section 7.9.2, permeable pavers may also be permitted and maintained.
- xiv) Landscaping in the front yard shall be provided in accordance with Section 6.11.3.
  - (a) Notwithstanding 6.31xvi), landscaping shall also be provided in the Flankage Yard.
- xv) Encroachments in the Front and Flankage Yards identified in Section 6.31 xvi) shall be subject to Section 6.6.
- xvi) Notwithstanding Section 6.31xvi), 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:
  - (a) 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,
  - (b) 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;
- xvii) A maximum one driveway shall be permitted for each lot containing a Secondary Dwelling Unit; and,
- xviii) Notwithstanding Section 6.31 xvii), for a corner lot, a maximum of one driveway may be permitted from each street frontage.
- xix) A Secondary Dwelling Unit – Detached shall only be permitted in a Rear and interior Side Yard. 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

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.

- xx) The exterior appearance and character of the front façade of the Single Detached Dwelling, Semi-Detached Dwelling or Street Townhouse Dwelling shall be preserved.
- xxi) There shall be no outside stairway above the first floor other than an required exterior exit.
- xxii) 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
- xxiii) 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:
  - a) A landscaped area of 8.0 square metres for each dwelling unit less than 50.0 square metres; and,
  - b) An landscaped area of 12.0 square metres for each dwelling unit 50.0 square metres or more.
- xxiv) A Secondary Dwelling Unit – Detached shall not be permitted in a ditch or swale.
- xxv) Notwithstanding the R1, R2, R3, R4 Residential Zones, the Residential and Commercial Conversion (R.C.C) Zone, and the Single Detached Residential Zone: Cross – Melville Heritage District (RH-1) Zone where an Accessory Apartment in a Dwelling Converted is permitted, 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 3581-86, 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:
  - i) 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 xxv) above.

- ii) Once the permit or approval under Clause xxv) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.

#### **6.31.1 Regulations for Secondary Dwelling Unit – Detached**

- i) A legally established accessory building existing as of May 12, 2021, in a Residential Zone, Residential and Commercial Conversion (R.C.C) Zone, and the Single Detached Residential Zone: Cross – Melville Heritage District (RH-1) 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 subject to the following provisions:
  - a) 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.
  - b) 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 6.31 ii), v), vii) to xix), xxi), and xxiv) and Subsections 6.31.1 ii) of this Zoning By-law;
- ii) A Secondary Dwelling Unit – Detached in a Residential Zone, Residential and Commercial Conversion (R.C.C) Zone, and the Single Detached Residential Zone: Cross – Melville Heritage District (RH-1) Zone shall be subject to the following provisions:
  - a) An eave or gutter of any Secondary Dwelling Unit – Detached may encroach into any required yard to a maximum of 0.45 metres.
  - b) 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.
  - c) 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.
  - d) Notwithstanding Section c), permeable pavers may be permitted where a parking space and driveway abut a laneway or street.

- e) Notwithstanding Section c), where the Secondary Dwelling Unit – Detached entrance faces the laneway, a minimum 0.3 metres Rear Yard shall be provided abutting a laneway.
- f) 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 metre shall be provided and maintained.
- g) A maximum height of 6.0 metres shall be permitted.
- h) The maximum gross floor area shall not exceed the lesser of 75 square metres or the Gross Floor Area of the principal Single Detached Dwelling, the Semi-Detached Dwelling Unit or the Street Townhouse Dwelling Unit.
- i) A minimum distance of 7.5 metres shall be required between the rear façade of principal dwelling and Secondary Dwelling Unit – Detached.
- j) 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.
- k) The maximum lot coverage of all Accessory Buildings and Secondary Dwelling Unit - detached shall be 25% of the total lot area.
- l) An unobstructed path with a minimum 1.0 metre width and minimum 2.1 metres 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.
- m) Balconies and rooftop patios are prohibited above the first storey.
- n) Each of the landscaped areas in Subsection 6.31xxiii) shall be screened on two sides by a visual barrier that has a minimum height of 0.3 metres.

3. That **Section 7: OFF – STREET PARKING AND LOADING** be amended by deleting Subsection 7.12.1.10 – Dwelling, Converted and replaced with the following new clause:

Secondary Dwelling Unit                      1 space per unit

4. That **SECTION 8: SINGLE-DETACHED RESIDENTIAL ZONE (R1)** be amended as follows:

- 4.1 By deleting Subsection 8.1.5 – One ACCESSORY APARTMENT.

- 4.2 Adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS	8.8	<b><u>REGULATIONS FOR SECONDARY DWELLING UNITS</u></b>
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8.8.1 The use shall comply with the provisions of  
Section 4.33.”

5. That **SECTION 9: SINGLE-DETACHED RESIDENTIAL ZONE (R2)** be amended as follows:

- 5.1 By deleting Subsection 9.1.5 – One ACCESSORY APARTMENT.

- 5.2 Adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS	9.8	<b><u>REGULATIONS FOR SECONDARY DWELLING UNITS</u></b>
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9.8.1 The use shall comply with the provisions of  
Section 4.33.”

6. That **SECTION 10: LOW DENSITY RESIDENTIAL ZONE (R3)** be amended as follows:

- 6.1 By deleting Subsection 10.1.7 – One ACCESSORY APARTMENT.

- 6.2 Adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS	10.10	<b><u>REGULATIONS FOR SECONDARY DWELLING UNITS</u></b>
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10.10.1 The use shall comply with the provisions  
of Section 4.33.”

7. That **SECTION 10A: LOW DENSITY RESIDENTIAL ZONE (R3A)** be amended by adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS      10A.6      **REGULATIONS FOR SECONDARY DWELLING UNITS**

10A.6.1 The use shall comply with the provisions of Section 4.33.”

8. That **SECTION 11: LOW DENSITY RESIDENTIAL ZONE (R4)** be amended as follows:

8.1 By deleting Subsection 11.1.10 – One ACCESSORY APARTMENT.

8.2 Adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS      11.12      **REGULATIONS FOR SECONDARY DWELLING UNITS**

11.12.1 The use shall comply with the provisions of Section 4.33.”

9. That **SECTION 11A: LOW DENSITY RESIDENTIAL ZONE (R6)** be amended by adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS      11A.7      **REGULATIONS FOR SECONDARY DWELLING UNITS**

11A.7.1 The use shall comply with the provisions of Section 4.33.”

10. That **SECTION 12: LOW TO MEDIUM DENSITY MULTIPLE DWELLING ZONE (RM1)** be amended by adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS      12.9      **REGULATIONS FOR SECONDARY DWELLING UNITS**

12.9.1 The use shall comply with the provisions of Section 4.33.”

11. That **SECTION 15A: RESIDENTIAL AND COMMERCIAL CONVERSION ZONE (R.C.C.)** be amended as

11.1 By deleting Subsection 15A.1.8 – One ACCESSORY APARTMENT.

11.2 Adding a new Subsection as follows:



“REGULATIONS FOR SECONDARY DWELLING UNITS      15A.11      REGULATIONS FOR SECONDARY DWELLING UNITS

15A.11.1      The use shall comply with the provisions of Section 4.33.”

12. That **SECTION 15B: SINGLE DETACHED RESIDENTIAL ZONE: CROSS-MELVILLE HERITAGE DISTRICT (RH-1)** be amended as follows:

12.1 By deleting Subsection 15B.1.3 – One ACCESSORY APARTMENT.

12.2 Adding a new Subsection as follows:

“REGULATIONS FOR SECONDARY DWELLING UNITS      15B.5      REGULATIONS FOR SECONDARY DWELLING UNITS

15B.5.1      The use shall comply with the provisions of Section 4.33.”

13. 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*.

14. 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*.

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

**PASSED** this 12<sup>th</sup> day of May, 2021.

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F. Eisenberger  
Mayor

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A. Holland  
City Clerk