



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 17, 2019
SUBJECT/REPORT NO:	Accessory Dwelling Units (Pilot Project) – Temporary Use By-law for City of Hamilton Zoning By-law No. 6593 (PED19176)
WARD(S) AFFECTED:	Wards 1 and 8
PREPARED BY:	Timothy Lee (905) 546-2424 Ext. 1249 Senior Planner, Policy Planning and Zoning By-law Reform
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That Report PED19176 (City Initiative CI-19-D - Accessory Dwelling Units - Pilot Project for Wards 1 and 8) to establish a Temporary Use By-law to amend Section 19 – Residential Conversion zone regulations in City of Hamilton Zoning By-law No. 6593, to provide for alternative zoning by-law standards on a temporary basis for three years to facilitate the creation of accessory units in single detached and two family dwellings, as part of the Low Density Rental Housing Licensing Pilot Project in Wards 1 and 8, be received; and,
- (b) That Report PED19176, together with any written submissions and input from delegations of the Low Density Rental Housing Licensing Pilot Project received at Planning Committee, be referred to staff for consideration and incorporated into a further report and amending By-law to be presented to a future Planning Committee.

EXECUTIVE SUMMARY

Staff of the Licensing and By-law Services Section of the Planning and Economic Development Department were directed to look into a Rental Housing Licensing Pilot Project for Wards 1 and 8 (Planning Committee Report 18-015, December 19, 2018).

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It is proposed, through the Rental Housing Pilot Project, that residential properties with fewer than five rental units will be required to obtain a Rental Business Owner Licence. The licence would be granted once the property demonstrates conformity/compliance with the applicable provisions of Hamilton Zoning By-law No. 6593, the Ontario Building Code (OBC) and the Fire Code of Ontario. This compliance/conformity requirement would be achieved through a Building Permit application. Based on preliminary stakeholder feedback on a Rental Housing Licensing regime, a concern has been raised that an unintended consequence will be the removal of existing rental units that do not comply with the in-force zoning provisions. Given that staff are in the process of developing updated zoning provisions for accessory dwelling units for community consultation, the need for an interim measure was identified, which is the nature of Report PED19176. A proposed Temporary Use By-law, attached as Appendix “A” to Report PED19176, to amend Section 19 – Residential Conversion in Hamilton Zoning By-law No. 6593 is being recommended by staff as an appropriate interim measure that will enable staff to assess the proposed alternative zoning regulations for accessory dwelling units.

At present, establishing an Accessory Dwelling Unit requires meeting Section 19 – Residential Conversion zone regulations or seek a Minor Variance approval through the Committee of Adjustment, or Rezoning. To assist with the Pilot Project, the proposed Temporary Use By-law (See Appendix “A” to Report PED19176.) amends the conversion regulations associated with a single detached dwelling and two-family dwellings. The proposed amendments ensure rental units are maintained and contribute to housing supply, while integrating with the surrounding community. The Temporary Use By-law is proposed to be in effect for up to 36-months until the completion of the New Residential Zones project which will bring residential zones into Hamilton Zoning By-law No. 05-200, including permitting Second Dwelling Units city-wide.

The proposed Zoning By-law amendments, as listed below, only apply to single detached dwellings and two-family dwellings for Wards 1 and 8:

Existing Regulation	Temporary Exemption
“B”, “B-1”, “B-2”, “C”, “D”, “R-2”, “DE” “DE-2”, “DE-3”, “E”, “E-1”, “E-2”, and “E-3” Districts	
Minimum 65 m ² for each dwelling unit	No minimum size requirement
Minimum lot area - 270 m ²	Minimum lot area reduced to 200 m ²
For lands east of Highway 403 in Ward 1 only	
	Add a new regulation to exempt existing legally established single and two-family dwellings with no parking from the current zoning standards.

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The first step is for Report PED19176 to be received for information for information, and any written submissions and input resulting from the Low Density Rental Housing Licensing Pilot Project be considered and incorporated into a further report, including any zoning by-law changes.

Alternatives for Consideration – See Page 13

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None

Staffing: None

Legal: Subsection 39 of the *Planning Act* allows a municipality to pass Temporary Use By-law for a 3 year period with an extension of up to another 3 years.

Subsection 34(19.1) of the *Planning Act* restricts appeals of any by-law passed under Section 34 relating to second dwelling units. A Temporary Use by-law is passed under Subsection 34 and therefore no appeals of the by-law are permitted under the Planning Act.

HISTORICAL BACKGROUND

1.0 Section 19 – Residential Conversion Regulations in Hamilton Zoning By-law No. 6593

A staff report was brought forward to the January 1991 City of Hamilton Planning and Development Committee which included the *Housing Intensification Strategy Report*. The Strategy Report provided information respecting the opportunity to revise and update the in-force zoning regulations to facilitate the conversion of dwelling units to permit Accessory Units. The Report also identified advantages and disadvantages of residential conversion, including benefits to the community. The report mentioned that Accessory Dwelling Units were a cost-effective solution to increase housing supply by homeowners without governmental investment; Accessory Dwellings were a way to utilize existing hard and soft infrastructure such as roads, sewers, and water services; and, implemented the concept of sustainable development by promoting a more compact urban form. This study resulted in an amendment to the City of Hamilton Zoning By-law No. 6593 and the creation of Section 19 – Residential Conversion Requirements zone regulations which was approved through By-law No. 92-281.

Section 19 of the Zoning By-law allows residential conversions based on Zone Districts. The table below shows Accessory Dwelling Units are permitted in association with Single Detached Dwellings, and Two Family and Multiple Dwellings by Zone Districts.

Single Detached Dwellings (Section 19.1)	Two Family Dwelling, Multiple Dwellings (Section 19.2)
“AA”, “B”, “B-1”, “B-2”, “C”, “D”, “R-2”, “DE”, “DE-2”, “DE-3”, “E”, “E-2”, “E-3” Districts	“DE”, “DE-2”, “DE-3”, “E”, “E-2”, “E-3” Districts

At the December 18, 2018 Planning Committee meeting, staff was directed to explore a Rental Housing Licensing Pilot Project for Wards 1 and 8 by the Licensing and By-law Services Section of the Planning and Economic Development Department.

The Pilot Project will require residential properties with fewer than five rental units to obtain a Rental Business Owner Licence which would be granted upon review of zone regulations in Hamilton Zoning By-law No. 6593, the Ontario Building Code (OBC) and the Fire Code of Ontario through the submission of a Building Permit application.

In response to Council’s direction, Planning and Economic Development Department staff have received preliminary feedback from stakeholders that a possible unintended consequence of the Licencing regime would be the removal of rental market housing units that have been created but do not comply with zoning. Specifically, the current minimum unit size (65 m²) and the minimum lot area (270 m²) have been identified as barriers to the legalization and/or creation of accessory dwelling units. To assist with the Pilot Project and facilitate input, it is proposed a Temporary Use By-law be passed to relax the lot area and unit size requirements. The Temporary Use By-law (See Appendix “A”) would amends zone regulations associated with a single detached dwelling and two-family dwellings.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Provincial Legislation and regulations

Bill 108 (More Homes, More Choice Act, 2019) received Royal Assent on June 6, 2019 and is a response by the Provincial Government to increase housing supply. One such method is direct municipalities to permit up to two Second Dwelling Units in single detached, semi-detached, and rowhouses in all municipalities in Ontario through its Official Plans and Zoning By-laws.

In addition, the provincial Government introduced a companion regulation to address parking and age of dwelling unit which the commenting period has recently ended. The proposed Temporary Use By-law provides relief from certain Residential Conversion regulations because of the Pilot Project.

2.0 Provincial Policy

1.1 Provincial Policy Statement 2014 (PPS)

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest related to land use planning and development which the UHOP has implemented. Section 1 – Building Strong Healthy Communities – requires a municipality to include policies in their Official Plan to address affordable housing (Policy 1.4.3.a) and the provision of housing for special needs groups (Policy 1.4.3.b.1.). Healthy, liveable and safe communities are sustained by accommodating an appropriate range and mix of residential, institutional, recreation, park and open space, and other uses to meet long-term needs.

The proposed Temporary Use By-law is consistent with the PPS in that it allows for Accessory Dwelling Units in single detached dwellings with more flexible Zoning By-law regulations.

1.2 Proposed Provincial Policy Statement 2019

The Province released the draft Provincial Policy Statement (2019) on July 22, 2019, and the three-month comment period ends on October 21, 2019. The proposed PPS 2019 proposes to accommodate a mix of residential types such as (additional residential units and housing for older persons) and living arrangements that should be employed in intensification and accommodating supply and range of housing options through intensification.

1.3 Growth Plan for the Greater Golden Horseshoe (A Place to Grow, 2019)

The Growth Plan contains similar policies to the PPS that requires a municipality, though the completion of a Housing Strategy, to identify affordable housing for current and future populations.

Policy 2.2.6.1 a) i) requires that municipalities plan to achieve certain density targets for both inside and outside the built boundary. To achieve these targets, municipalities must identify a diverse range and mix of housing options and densities, including second units and affordable housing to meet projected needs of current and future residents. This is also identified under Policy 1.2.1: Guiding Principles. This includes second units to serve all sizes, incomes, and ages of households (Policy 2.2.1.4).

The proposed Temporary Use By-law conforms to the Growth Plan by encouraging the establishment of Accessory Dwelling Units in Hamilton and providing more flexible Zone regulations.

2.0 Urban Hamilton Official Plan (UHOP)

Housing policies in Volume 1 of the UHOP identifies the need for a range of housing types, forms, and densities to meet the social, health and well-being requirements of all current and future residents (Policy B.3.2.1.1). Further, the goal includes increasing Hamilton's housing stock based on tenure, affordability throughout the urban area of the City (Policies B.3.2.1.4 and B.3.2.1.6).

Additional general housing policies where Policy B.3.2.4.1 states the development of a full range of housing forms, types, and densities shall be provided for and promoted throughout the City of Hamilton through residential intensification and new development. Residential Intensification policies also speak to integration of new development with the existing neighbourhood and consider scale, bulk, and massing.

Under the general land use provision, Policy C.3.2.2d) and Policy E.3.2.3a) states Second Dwelling Units shall be permitted within single and semi-detached dwellings provided it complies with all applicable policies and the Zoning By-law.

Additional Policies can also be found in respective Secondary Plans in Volume 2 of the UHOP. The proposed Temporary Use By-law conforms to the policies of the UHOP as it provides relief from Zone regulations to simplify establishing Accessory Dwelling Units.

2.1 Ainslie Wood Westdale Secondary Plan:

Accessory Dwelling Units are permitted in the Low Density Residential 2 designation as identified in Policy B.6.2.5.4a)i) and generally development must be compatible with the surrounding existing neighbourhood as directed under Policy B.6.2.5.2a), b), and c).

Existing policies in the Secondary Plan provides further support to the proposed Zoning By-law as Accessory Dwelling Units are a recognized form of housing that is permitted within ground related housing, and general amendments to Section 19 of Hamilton Zoning By-law No. 6593 support these policies to encourage Accessory Dwelling Units to be established.

2.2 Strathcona Secondary Plan:

Under Policy B.6.6.5.2 – General Residential Policies of the Secondary Plan, residential development and infill development shall reflect and enhance the character of the residential areas and provide for a broad range and mix of housing types and

opportunities in terms of built form and tenure. Under Subsection g), all development proposals shall consider compatibility with adjacent uses including its scale and character of the existing residential neighbourhood.

3.0 City of Hamilton Official Plan

Certain lands affected by the proposed Temporary Use By-law (See Appendix “A”) to the north and west of York Boulevard and Queen Street North are not included within the UHOP as there was no decision (Non-decision No. 113) made by the Ministry regarding the adoption of the Setting Sail Secondary Plan into the UHOP because at the time the Ministry was reviewing the UHOP and the Setting Sail Secondary Plan was still under appeal. The lands are currently designated “West Harbour” on Schedule “A” Land Use Concept of the City of Hamilton Official Plan, identifying the area as the West Harbour (Setting Sail) Secondary Plan.

3.1 West Harbour (Setting Sail) Secondary Plan:

Accessory dwellings are considered under Policy A.6.3.3.1.12, as development in the Low Density Residential areas new development in the existing neighbourhood should consider scale, type, and character. The proposed Temporary Use By-law provides certain relief from Residential Conversion Zone regulations while maintaining the intent of the Secondary Plan policy.

4.0 Zoning By-laws

Briefly, the current zone regulations under Section 19 of Hamilton Zoning By-law No. 6593 which area applicable to the Pilot Project area permit accessory units subject to the following requirements:

- One Accessory Dwelling Unit is permitted in a single detached dwelling under Section 19 (1) for “B”, “B-1”, “B-2”, “C”, “D”, and “R-2” Districts;
- One or more Accessory Dwelling Units are also permitted in Two-Family Dwellings, Three-Family Dwellings, and Multiple Dwellings under Section 19(2) for “DE” “DE-2”, “DE-3”, “E”, “E-1”, “E-2”, and “E-3” Districts;
- Each dwelling unit (i.e. the principal dwelling and the accessory dwelling unit) must have a floor area of at least 65 square metres;
- The minimum lot size shall be 270 square metres;
- The external appearance and character of the dwelling shall be preserved;

- There shall be no outside stairway other than an exterior exit;
- Parking requirements, access driveway, and manoeuvring space shall be provided in accordance with Section 18A of the Zoning By-law; and,
- A minimum of 50% of the front yard shall be landscaped.

The intent of these regulations is to permit Accessory Dwelling Units based on the minimum lot size requirement and minimum gross floor area of each dwelling unit to meet Ontario Building Code requirements and to maintain the appearance and character of the dwelling.

As part of the proposed Temporary Use By-law (See Appendix “A”), certain Zone regulations are amended to provide relief for homeowners wishing to establish an Accessory Dwelling Units. This Temporary Use By-law is part of the implementation of the Low Density Rental Dwelling Licensing Pilot Project which reduces the number of regulations which should assist landlords in legalizing their Accessory Dwelling Units.

RELEVANT CONSULTATION

The following Sections and Departments were consulted:

Licensing and By-law Services, Planning and Economic Development Department

Investment In Affordable Housing Section, Healthy and Safe Communities Department

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1.0 Licensing By-law for Low Density Rental Housing Wards 1 and 8 – Pilot Project Area

The purpose of this Pilot Project, led by the Licensing and By-law Services Section, is to implement a low density rental housing licensing program for buildings containing 5 rental units or less in two Pilot Project areas of Wards 1 and 8. A license shall only be granted upon successful review of the zone regulations under Hamilton Zoning By-law No. 6593, the Ontario Building Code (OBC), and the Ontario Fire Code.

To support the Pilot Project, the proposed Temporary Use By-law (See Appendix “A”) was initiated to provide relief to certain zone regulations in Section 19 – Residential Conversion Requirements in Hamilton Zoning By-law No. 6593. The recommendation is to receive Report PED19176 and to consider any written submissions and input from delegations received at Planning Committee. This input would be addressed in a future

report and amending Temporary Use Zoning By-law to be presented to Planning Committee for Consideration. It is anticipated that a report on the Pilot Project will be brought forward to Planning Committee in the near future where the opportunities for written comments and input from delegations will exist.

The following is an analysis of the Zone regulations amended through the proposed By-law.

2.0 Temporary Use By-law

Section 19.(1) of Zoning By-law No. 6593 permits Accessory Dwelling Units within existing single detached dwelling based on certain regulations. Similarly, Section 19.(2) permits Accessory Dwelling Units within existing Two-Family Dwellings, Three-Family Dwellings, and Multiple Dwellings. Generally, the same regulations apply to both Sections.

The proposed Temporary Use by-law provides relief to certain zone regulations to facilitate residential conversion of single detached dwelling under Section 19.(1) and single detached dwellings and two family dwellings in Section 19.(2) that have been commonly modified through Minor Variance applications. Examples include reduction in minimum floor area for each dwelling unit and minimum lot size requirements.

2.1 Existing Zoning By-law regulations and Proposed Amendments

The following table identifies the existing Zone regulations under Sections 19.(1) and 19.(2) in Hamilton Zoning By-law No. 6593, whether the zone regulation is amended through the proposed Temporary Use By-law, and the rationale for the amendment (or not amended). A more thorough discussion on Parking Requirements and Manoeuvring can be found under Subsection 2.2 of this Report. The draft Temporary Use By-law can be found in Appendix “A” of this Report.

Regulation	Temporary Exemption	Rationale
“B”, “B-1”, “B-2”, “C”, “D”, “R-2”, “DE” “DE-2”, “DE-3”, “E”, “E-1”, “E-2”, and “E-3” Districts		
Minimum 65 m ² for each dwelling unit Subsection 19.(1)(i), 19.(2)(i) and 19.2 (v)(2) – in part	Yes	The intent of the minimum floor area of 65 square metres is to ensure the dwelling unit is not too small and undersized.

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Regulation	Temporary Exemption	Rationale
No change to the external appearance (e.g. not adding a door to the front of the house) Sections 19.(1)(iii) and 19.(2)(ii)	No	Limited changes to the external appearance to the front façade facing the street (i.e. windows and doors to meet OBC requirements) but not permitting two doors facing the street.
No outside stairway, except for an exterior exit. Sections 19.(1)(iv) and 19.(2)(iii)	No	The intent is for dwelling units to be integrated into the neighbourhood fabric. Also addresses the issue of privacy and overlook.
Minimum 50% of front and yards to be landscaped (excludes asphalt, pavers, concrete, gravel, etc.). Sections 19.(1)(v)(2) and 19.(2)(vi)(2)	No	It is important to balance the need for parking spaces with front yard landscaping to minimize paving over the majority or entire front yards. From a climate change perspective, it is important to maintain as much permeable surface as possible. Also maintains the general appearance of the lot from the street.
<i>Parking and Manoeuvring</i>		
2 spaces per dwelling unit, allowed as tandem Table 1, Section 18A	Yes – in part	Affects only in Ward 1 east of Highway 403 to recognize lots with little space to accommodate an extra parking space. See discussion on parking.
Manoeuvring space (6 m) required, but Manoeuvring space for one dwelling unit may be permitted off-site. Sections 19.(1)(v)(2) and 19.(2)(vi)(2)	Yes – in part	Affects only in Ward 1 east of Highway 403 to recognize lots with little space to accommodate an extra parking space.. See discussion on parking.

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Regulation	Temporary Exemption	Rationale
New regulation for certain areas to exempt existing single and two-family dwellings with no parking from the current zoning standards.	To be added	Affects only in Ward 1 east of Highway 403 to recognize lots with little space to accommodate an extra parking space.. See discussion on parking.
“B”, “B-1”, “B-2”, “C”, “D”, and “R-2” Districts		
Minimum lot area for single-detached dwelling 270 m ² . Section 19.(1)(ii)	Yes, , to reduce lot area to 200 m ² .	An amendment allows smaller residential lots to also permit an Accessory Dwelling Unit.
“DE” “DE-2”, “DE-3”, “E”, “E-1”, “E-2”, and “E-3” Districts		
Minimum 270 m ² of lot area for one to three dwelling units. Section 19.(2)(v)(1)	Yes, to reduce lot area to 200 m ² .	In these zoning districts, up to two additional dwelling units are permitted provided the lot area is 270 m ² . An exemption allows smaller lots the opportunity for residential conversion.
Minimum 450 m ² of lot area for more than three dwelling units. Section 19.(2)(v)(2)	No	The intent is to provide a minimum lot area to accommodate the building containing more than three dwelling units, associated parking lot and driveway, building setbacks from the property line, and to address issues of privacy and overlook.
Setback requirements of the applicable zoning district in which the residential building is located shall apply to any extensions or enlargements. Section 19.(2)(iv)	No	The intent is to require a minimum setback from the property line especially for larger residential buildings containing numerous dwelling units. Also address privacy and overlook.

Other zone regulations with respect to encroachment of certain architectural features such as ramps, chimneys, bay windows, ornamental projections, alcoves, and vestibules,

amongst others, are not part of the proposed Temporary Use By-law and are not listed in the above table.

2.2 *Parking Requirements and Parking Arrangement / Manoeuvring*

Under Section 18A of Hamilton Zoning By-law No. 6593, a single detached dwelling containing 8 habitable rooms (i.e. bedroom, living, study room) or less requires two parking spaces. Further, under Section 18A(14h)(i), the two required parking spaces can be arranged in tandem (i.e. cars can be parked in a single-file on a single-car driveway) but only apply to single detached dwellings.

When a homeowner establishes an Accessory Dwelling Unit within the single detached dwelling through the Section 19 – Residential Conversion zone regulations, the single detached dwelling becomes a converted single detached dwelling containing two dwelling units. Additional rooms in the accessory dwelling unit are not counted as part of the habitable rooms for the single detached dwelling. For the purposes of calculating parking requirements, requirements under Two Family Dwelling are used. Based on Table 1 of Section 18A, the number of required parking spaces for the property remains at two for the property (1 parking space for each dwelling unit). This equates to two required parking spaces.

Whereas tandem parking is permitted for Single Detached Dwellings, tandem parking is not permitted for a converted single detached dwelling containing two dwelling units. For example, cars can be parked in a single file with the presence of a single detached dwelling. However, with a converted single detached dwelling, this permission is lost, and unobstructed manoeuvring must therefore be provided for each vehicle. The following is a table summarizing the various parking requirement and combinations.

	Single Detached Dwelling	Converted Single Detached Dwelling containing two dwelling units
Parking Requirement	2.0 parking spaces	1.0 parking spaces per dwelling unit
Total Number of Parking Spaces Required	2.0 parking spaces	2.0 parking spaces
Tandem Parking?	Yes	No

Generally, newer residential communities, such as in Hamilton Mountain, may be able to accommodate two or more cars on a driveway that are unobstructed and have full manoeuvrability onto the street. For example, a two-car driveway/garage can

accommodate two vehicles parked side by side. However, in older communities, such as near the Downtown, where residential lots may not have a driveway onsite, or have a single-car driveway, there is greater difficulty to accommodate the second vehicle that is unobstructed to the street. Variances that have been requested have been for reduction in parking requirements or increase the percentage of paved surface in the front yard to accommodate the second parking spot.

To recognize the unique lot fabric and lack of onsite parking in communities such as Strathcona, (See Schedule “A1” of Appendix “A”), the proposed Temporary Use By-law includes a regulation where parking requirements are deemed to comply for existing legally established single detached dwellings, and where the number and location of the parking spaces are also legally established (See Appendix “A”). In other words, for the purposes of calculating parking requirements, the single detached dwelling use is maintained which also continues to permit tandem parking.

For the remainder of the Pilot Project area (See Schedules “A2” and “B” of Appendix “A”), parking requirements remain status-quo and is not part of the amendment as residential lots are generally wider, and existing driveway may be widened to accommodate the parking space for the accessory dwelling units should additional parking is required while maintaining the minimum landscaped area for the front yard. Further, these are infrequent requests for variances in the remainder of the Pilot Project Area.

The modification to the parking requirements would apply to single detached dwellings in the “B”, “B-1”, “B-2”, “C” and “D” Districts under Section 19.(1), and single detached dwellings and two family dwellings in the “DE” “DE-2”, “DE-3”, “E”, “E-1”, “E-2”, and “E-3” Districts under Section 19.(2) that are legally established with no parking on-site. This exemption does not apply to three family dwellings and multiple dwellings.

ALTERNATIVES FOR CONSIDERATION

- Option 1 – Staff would address second dwelling units as part of the residential zones in Zoning By-law No. 05-200. Existing zone regulations under Section 19: Residential Conversion would continue to exist.
- Option 2 – Change the length of the proposed Temporary Use By-law to less than 36 months.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” Draft Zoning By-law – Proposed Temporary Use By-law for Second Dwelling Units in Hamilton Zoning By-law No. 6593.