



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chairs and Members Planning Committee
COMMITTEE DATE:	May 17, 2022
SUBJECT/REPORT NO:	Modifications and Updates to existing Secondary Dwelling Unit and Secondary Dwelling Unit – Detached Regulations (PED20093(c)) (City Wide)
WARD(S) AFFECTED:	City Wide
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SUBMITTED BY: SIGNATURE:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department

RECOMMENDATION

That City Initiative CI-20-E respecting the repealing and replacing of the Secondary Dwelling Unit and Secondary Dwelling Unit – Detached regulations in the Hamilton Zoning By-law No. 05-200 and the Zoning By-laws applicable to the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, City of Hamilton, and City of Stoney Creek, be approved on the following basis:

- (a) That the Draft By-laws to amend Zoning By-law No. 05-200, the Town of Ancaster Zoning By-law No. 87-57, Town of Dundas Zoning By-law No. 3581-86, the Town of Flamborough Zoning By-law No. 90-145-Z, the Township of Glanbrook Zoning By-law No. 464, City of Hamilton Zoning By-law No. 6593, and the City of Stoney Creek Zoning By-law No. 3692-92, attached as Appendix “A” to Appendix “G” to Report PED20093(c), which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the proposed changes in zoning are consistent with the Provincial Policy Statement (2020), conform with A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and comply with the Rural and Urban Hamilton Official Plans.

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EXECUTIVE SUMMARY

On May 12, 2021, Council approved By-law Nos. 21-071 to 21-077 (inclusive) permitting Secondary Dwelling Units (SDU) in the Urban and Rural Areas, and Secondary Dwelling Units – Detached (SDU-D) in the Urban Area. These By-laws amended Zoning By-law No. 05-200 and each of the Community Zoning By-laws to add permissions for accessory dwelling units to be provided within a single detached, semi-detached, or townhouse/rowhouse dwelling (SDU) or within a detached structure (SDU-D), including the conversion of existing accessory buildings.

Staff have been monitoring the SDU and SDU-D regulations through Building Permits and Minor Variance Applications and have identified several interpretation issues. Accordingly, the SDU and SDU-D regulations have been revised to better organize, simplify and align the regulations with the parent Zoning By-laws (see Appendix “A” – “G” attached to Report PED20093(c)). A summary of the amendments to the regulations is provided in Appendix “H” attached to Report PED20093(c) and include:

- Reorganizing the SDU / SDU-D regulations to group the regulations into categories;
- Removing redundant regulations;
- Aligning SDU / SDU-D regulations with the parent Zoning By-law;
- Providing clarification to the existing parking regulations in all Zoning By-laws where no parking is required for the SDU / SDU-D only (shall not apply to the Rural Area); and,
- Other technical and cross-referencing updates to provide consistency in all Zoning By-laws.

As monitoring of the regulations continue, for the ease of administration, it is recommended to repeal and replace the SDU and SDU-D regulations in Hamilton Zoning By-law No. 05-200 and the Zoning By-laws applicable to the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, City of Hamilton, and City of Stoney Creek.

The planning framework and zoning permission for additional dwelling units continues to evolve through the continued work on the Residential Zoning project. In anticipation of future amendments to permit conversions of existing dwellings, staff have amended the language in Zoning By-law No. 05-200 from Secondary Dwelling Units and Secondary Dwelling Units - Detached to Additional Dwelling Units and Additional Dwelling Units – Detached. For the purposes of this Report, the former Community Zoning By-laws will retain the Secondary Dwelling Unit language. Rebranding the housing options allows for more flexibility moving forward in the new Residential Zoning for Zoning By-law No. 05-200.

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In addition to Report PED20093(c), work remains in progress to bring detached SDU permissions to the Rural Area (except in areas where servicing constraints exists). In addition, staff are currently reviewing the regulations for farm labour residences. The results of the review will be presented to Planning Committee in Q1 2023.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider amendments to the Zoning By-laws.

Notice of the Public Meeting was placed in the Hamilton Spectator and the Community Newspapers on April 29, 2022.

The Rural Hamilton Official Plan (RHOP) and the Urban Hamilton Official Plan (UHOP) contain policies to permit SDUs in accordance with the provisions of *Bill 108*. Therefore, in accordance with Section 34(19.1) of the *Planning Act*, appeals of the proposed Zoning By-law Amendments pertaining to SDUs, attached as Appendix “A” to Report PED20093(a), are not permitted because the City’s Official Plan contains policies permitting SDUs.

HISTORICAL BACKGROUND

1.0 Introduction of new SDU Regulations – May 2021

On May 12, 2021, City Council approved By-law Nos. 21-071 to 21-077 (inclusive) permitting SDUs in the Urban and Rural Area to Zoning By-law No. 05-200 and the Zoning By-laws applicable to the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, City of Hamilton, and City of Stoney Creek. In addition to general parking requirements and definitions for SDUs, the regulations included:

- Urban Area Specific Regulations:
 - SDU within a principal dwelling:
 - Parent zone regulations that apply to additions to the principal dwelling.

- Detached SDU:
 - Locational requirements such as setbacks and lot coverage;
 - Regulations to meet the health and safety requirements in accordance with the Ontario Fire Code;
 - Design requirements such as height and maximum Gross Floor Area; and,
 - Additions over 10% of the floor area of the existing building must meet the size and height requirements of a detached SDU for conversions.
- Rural Area Specific Regulations:
 - SDU within a principal dwelling only:
 - Minimum lot area and adequate servicing requirements;
 - Prohibition of SDUs where servicing constraints exists; and,
 - Technical amendments to Farm Labour Residence regulations.

Phase 2 of the SDU project focuses on proposing regulations to permit detached SDUs in the Rural Area, where appropriate. For more information, refer to Bullet 2.0 – Next Steps under the Analysis and Rationale for Recommendation to Report PED20093(c).

2.0 SDU Housekeeping Amendment – October 2021

SDU regulations are monitored at the Building Permit Application stage and Committee of Adjustment to ensure whether there are barriers to their construction and where clarification is needed to eliminate interpretation matters.

A Housekeeping Amendment to the SDU regulations was approved by Planning Committee and Council in October 2021 to address the following regulations:

- Parking Requirements for SDUs;
- Amendments to performance standards, including side and rear yard setbacks and SDU location in a cellar; and,
- Other technical and cross-referencing amendments.

3.0 Continued SDU By-law Monitoring

Since approval of the SDU By-laws (21-071 – 21-077, inclusive) in May 2021, there have been 55 Applications to the Committee of Adjustment (as of April 30, 2022), respecting SDUs / SDU-Ds. Of this total, 50 have been approved and 5 have been denied. The modifications associated with the Applications include, but are not limited to:

- Recognizing existing conditions associated with the principal dwelling (i.e. driveway locations, doors, front yard landscaped areas, parking);
- Amending development standards for SDU-D (i.e. reduced setbacks, reductions to unobstructed paths, landscaping treatments in the required side yards); and,
- Reducing on-site parking associated with an SDU/SDU-D.

As a result of these variances, staff have reviewed and evaluated the SDU / SDU-D regulations to remove any unnecessary regulations and to avoid interpretation issues. The evaluation also takes into consideration the impacts of future amendments being considered to implement the No Urban Boundary Expansion option as discussed in Report PED21067(b). These modifications allow for a fulsome update and sets the appropriate framework for any future amendments required as a result of the approved intensification option. While the overall intent of the regulations remains, a full repeal and replacement of the regulations are proposed for ease of implementation. The principles and permissions are not altered through the proposed administrative changes to the By-laws.

4.0 Additional Dwelling Units

The amendments to the Urban Hamilton Official Plan to implement a No Urban Boundary Expansion option (Report PED21067(b)) will allow for more intensification in lower density areas. As a result, staff have evaluated the existing SDU and SDU-D framework to adapt the regulations to incorporate additional units. For the purposes of this Report, the revisions reorganize and simplify the regulations and set the framework for additional units. Additional units may be through development of SDU and SDU-D or conversion of existing dwellings. The amendments to Zoning By-law No. 05-200 include renaming the SDU and SDU-D General Provision to accommodate these future regulations and to allow for the evolution of intensification options in existing residential area. At this time, no revisions are contemplated however, as indicated in Report PED21067(b), additional residential uses and permissions may be implemented in the future.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Provincial Legislation and Policy Framework

Bill 108 (More Homes, More Choice Act, 2019) received Royal Assent on June 6, 2019 for a broad change to various pieces of legislation such as the *Planning Act*, *Ontario Heritage Act*, and the *Development Charges Act*, amongst others. By-law Nos. 21-071 to 21-077 (inclusive) approved by Hamilton Council on May 12, 2021 implemented these provincial policy requirements.

Further, By-law Nos. 21-071 to 21-077 (inclusive) were approved by Hamilton Council on the basis that they were consistent with the Provincial Policy Statement (2020) and conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019, as amended.

The proposed Zoning By-law modifications and updates to existing SDU regulations for the Urban and Rural Area to Zoning By-law No. 05-200 and the Zoning By-laws applicable to the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, City of Hamilton, and City of Stoney Creek conform to and are consistent with Provincial legislation and policy.

2.0 Urban and Rural Hamilton Official Plans

On May 12, 2021, Hamilton Council approved SDU regulations on the basis that it conforms to the UHOP and RHOP which included proposed policy changes to implement *Bill 108 (More Homes, More Choice Act, 2019)*. Based on the foregoing, the proposed housekeeping and updated amendments to existing SDU / SDU-D regulations for the Urban and Rural Area to Zoning By-law No. 05-200 and the Zoning By-laws applicable to the former municipalities conform to the Urban and Rural Hamilton Official Plans.

3.0 Hamilton-Wentworth Official Plan, City of Hamilton Official Plan, West Harbour (Setting Sail) Secondary Plan

The subject lands are not included within the UHOP as they are part of Non-Decision No. 113. As a result, the policies of the Hamilton-Wentworth Official Plan, City of Hamilton Official Plan and West Harbour (Setting Sail) Secondary Plan remain in effect. The Council approved SDU regulations conformed to these plans and the proposed housekeeping and updated amendments to the existing SDU / SDU-D regulations applicable to Zoning By-law No. 05-200 and former City of Hamilton Zoning By-law No. 6593 applicable to this area conform to the Hamilton-Wentworth Official Plan, City of Hamilton Official Plan and West Harbour (setting Sail) Secondary Plan.

4.0 Zoning By-laws

The approval by Council of By-law Nos. 21-071 to 21-077 (inclusive) expanded existing permissions and regulations for SDUs across all existing in-force Zoning By-laws city wide and implemented Provincial directions and corporate goals and objectives at the property level. Subsequent to becoming in force and effect, Building Permit and Minor Variance Applications have been submitted as regulations are being tested through the review of proposed SDUs and SDU-Ds. As part of continued monitoring of the regulations, it was determined that revisions were required to reorganize the

regulations, remove redundant and duplicate regulations and simplify the language. The proposed By-law amendments (included as Appendices “A” – “G” attached to Report PED20093(c)) repeal and replace the existing regulations. The proposed amendments maintain the intent of the original SDU / SDU-D regulations while providing additional clarity to the regulations, thereby improving By-law interpretation and implementation on a go-forward basis. More information can be found in the Analysis and Rationale for Consideration Section on page 6 to Report PED20093(c).

RELEVANT CONSULTATION

Committee of Adjustment staff and Zoning staff of the Planning and Economic Development Department were consulted throughout the process to identify interpretation or implementation related issues respecting the SDU regulations. The interpretation and implementation issues have been addressed in the draft Zoning By-laws (See Appendix “A” to “G” attached to Report PED20093(c)). The rationale for each amendment is summarized in Appendices “H” attached to Report PED20093(c).

Notice of these amendments was posted in the Hamilton Spectator on April 29, 2022.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1.0 Proposed By-law Amendments

To address modifications and updates to Zoning By-law No. 05-200 and the six Zoning By-laws applicable to the former municipalities, draft Zoning By-laws are included in this Report (see Appendix “A” – “G” attached to Report PED20093(c)). Most of the amendments are identical across all seven Zoning By-laws to provide consistency in regulations city wide. The amendments include reorganizing the regulations, removing redundant regulations, simplifying language, clarifying the parking requirements, and cross-referencing amendments. A summary of the changes is provided in Appendix “H” attached to Report PED20093(c).

1.1 Reorganizing SDU Regulations

The in effect SDU By-laws 21-071 – 21-077 (inclusive) included regulations for both SDU and SDU-Detached, including location, height, lot coverage, setbacks, landscaping and parking requirements. The proposed amendments include categorizing the existing regulations to provide clarity for the reader and to reduce interpretation issues. All regulations that apply to both SDU and SDU-D (i.e. parking) have been pulled forward to a general section and the regulations associated with an SDU and SDU-D have been further separated to provide a clear distinction between the two forms of additional units.

These revisions create simpler, well defined categories and will make the regulations easier to use.

1.2 Removing Redundant Regulations and Simplifying Language

The SDU By-laws included regulations that were duplicated from the parent Zoning By-laws and were duplicated within the regulations themselves. To avoid redundancies and avoid interpretation issues, each of the regulations have been reviewed and only those regulations being modified to allow SDUs have been included in the revisions. For example, definitions that had been previously added to the SDU section have been removed and added to the relevant Definition Section of the parent Zoning By-law. These types of changes will allow for a consistent Application of the Zoning By-law, including those regulations associated with SDUs / SDU-Ds.

These amendments also take into consideration the regulations of the parent Zoning By-law and potential conflicts with the SDU / SDU-D regulations. For example, where the parent Zoning By-law does not already include regulations for the amount and location of driveways, the SDU regulations should not establish a restriction. In the situation that an existing lot legally has two driveways, the addition of a SDU / SDU-D would trigger minor variances to recognize the existing situation. In review of the minor variances since approval of the SDU By-laws in May of 2021, modifications to recognize existing conditions were the most prevalent.

1.3 Parking Requirements for the Principal Dwelling and SDU

Each of the Zoning By-laws were updated to include a parking requirement of one space per SDU / SDU-D. However, the SDU regulations recognize that where a principal dwelling is legally established with no parking, that no additional parking is required for the SDU / SDU-D. Clarification has been provided to ensure that the existing conditions are recognized and that no further parking is required as a result of adding an SDU.

The parking regulations have been further amended so that reduced parking requirements do not apply to the Rural Area as there are few transportation alternatives to driving, and therefore the need for parking spaces will be greater.

These recommended updates to the parking regulations impacts Zoning By-law No. 05-200 and the six Zoning By-laws applicable to the former municipalities, which provides clarity and consistency respecting parking requirements for existing dwellings. These recommended changes are found in see Appendix “A” – “G” attached to Report PED20093(c).

1.4 Other Technical Amendments

When regulations were introduced in May 2021 to establish permissions for Secondary Dwelling Units and Secondary Dwelling Units – Detached, among the six former municipal Zoning By-laws, the new regulations either replaced existing residential conversion regulations or created a new set of regulations to permit SDUs and SDU-Detached throughout the urban area. The new regulations were introduced to harmonize and provide consistency across the entire City. The changes proposed to the SDU and SDU-D regulations through this Report presents an opportunity to provide clarity on the distinction between Secondary Dwelling Units and conversion regulations that remain in place in the former municipal Zoning By-laws for Dundas and Stoney Creek.

1.4.1 Town of Dundas Zoning By-law No. 3581-86

The Town of Dundas Zoning By-law No. 3581-86 permits conversions of existing dwellings in the Low Density Residential Zone (R4), the Medium Density Multiple Dwelling Zone (RM2), and the Residential and Commercial Conversion Zone (R.C.C).

The existing conversion regulations are intended to be modified to clarify that the SDU regulations apply to conversions that add one internal dwelling unit, whereas the conversion regulations apply when an existing dwelling is converted to contain greater than two dwelling units, up to the maximum permitted in the zone.

Parking requirements are proposed for conversions that align with the parking requirements for SDUs and SDU-D. If the required parking spaces for the existing dwelling continue to be provided and maintained, only the fourth dwelling unit of a conversions is required to provide a parking space. The second dwelling unit of a conversion is subject to the SDU parking requirements. The third dwelling unit of a conversion, provided it represents the third dwelling unit on the lot, is not required to provide parking if the required parking for the existing dwelling continues to be provided. This approach is consistent with the SDU / SDU-D parking requirements and recognizes that additional dwelling units may be located within the existing dwelling or separate as a SDU-D.

1.4.2 City of Stoney Creek Zoning By-law No. 3692-92

In the City of Stoney Creek Zoning By-law No. 3692-92, the Multiple Residential “RM1” Zone permits conversions. As with Dundas, conversions in the “RM1” Zone are to be clearly distinguished from SDUs, and the proposed parking requirement integrated alongside the SDU and SDU-D parking requirements.

2.0 Next Steps

Phase 2 of the SDU project focuses on developing new regulations to permit SDU-D in the Rural Area, where appropriate. The previous By-law (By-law 21-071) did not incorporate SDU-D regulations for the rural area. The Rural Zones, A1, A2, and S1 in Zoning By-law No. 05-200, were previously amended to include SDU permissions. To ensure that issues related to sustainable private servicing are addressed in future zoning regulations, a servicing study is being undertaken in collaboration with Hamilton Water staff. The findings of the servicing study will assist in informing future zoning regulations such as the minimum lot size to be eligible to establish a SDU-D.

ALTERNATIVES FOR CONSIDERATION

If the proposed Housekeeping Amendment By-law is not approved, inconsistencies in the interpretation and Application of the regulations for Secondary Dwelling Units in Hamilton Zoning By-law No. 05-200 and the six Zoning By-laws applicable to the former municipalities will continue to occur which may lead to additional requirements for Minor Variance Applications and delays in approvals for some SDUs / SDU-Ds.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to PED20093(c) – Draft By-law to Zoning By-law No. 05-200

Appendix “B” to PED20093(c) – Draft By-law to Town of Ancaster Zoning By-law No. 87-57

Appendix “C” to PED20093(c) – Draft By-law to Town of Dundas Zoning By-law No. 3581-86

Appendix “D” to PED20093(c) – Draft By-law to Town of Flamborough Zoning By-law No. 90-145-Z

Appendix “E” to PED20093(c) – Draft By-law to Township of Glanbrook Zoning By-law No. 464

Appendix “F” to PED20093(c) – Draft By-law to City of Hamilton Zoning By-law No. 6593

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Appendix “G” to PED20093(c) – Draft By-law to City of Stoney Creek Zoning By-law No.
3692-92

Appendix “H” to PED20093(c) – Summary of Regulation Changes

SM/AF:sd