



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 4, 2025
<b>SUBJECT/REPORT NO:</b>	Modifications and Updates to existing Accessory Dwelling Unit and Accessory Dwelling Unit – Detached Regulations to Implement Ontario Regulation 462/24 – Additional Residential Units (PED24208(a)) (City Wide – Urban Area)
<b>WARD(S) AFFECTED:</b>	City Wide – Urban Area
<b>PREPARED BY:</b>	Madeleine Giroux (905) 546-2424 ext. 2664
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director of Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That City Initiative CI-25-B respecting modifications to the Accessory Dwelling Unit and Accessory Dwelling Unit – Detached regulations in City of 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, former 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, the 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 PED24208(a), which have been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (b) That the proposed changes in zoning are consistent with the Provincial Planning Statement (2024) and comply with the Urban Hamilton Official Plan.

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## **EXECUTIVE SUMMARY**

The *Cutting Red Tape to Build More Homes Act, 2024*, received Royal Assent on June 6, 2024, which made further changes to the *Planning Act* to provide the Minister of Municipal Affairs and Housing with broader authority to remove municipal zoning by-law barriers that may be limiting the development of Additional Residential Units.

On November 20, 2024, the Province filed Ontario Regulation 462/24, an amendment to Ontario Regulation 299/19 – Additional Residential Units, introducing province-wide regulations for additional residential units which includes maximum lot coverage, angular planes, floor space index, minimum separation distances, and maximum lot sizes on parcels of urban residential land subject to the Additional Residential Units framework in the Planning Act. Report PED24208 provided a detailed description and impact of each proposed regulation which have since been enacted by the Province.

The City has been a leader in the advancement of Additional Dwelling Unit permissions. In doing so, it has demonstrated a commitment to achieving the City's housing goals through this form of development. In 2021, following the culmination of extensive evaluation and community consultation, Additional Dwelling Unit permissions were introduced city-wide and included zoning regulations guiding the development of both internal and detached Additional Dwelling Units. Subsequently, in 2022, a city-wide amendment introduced new Low Density Residential Zones with broader housing permissions. This amendment further facilitated the opportunities for Additional Dwelling Units within Hamilton's neighbourhoods.

The City's zoning regulations for Additional Dwelling Units were well established before the recent enactment of Ontario Regulation 462/24. However, with the introduction of province-wide regulations, staff have applied a customer-centric lens to identify those regulations that need to be modified to align with the Province's new Additional Residential Unit regulations. In doing so, the aim is to remove confusion and provide clarity with respect to the City's requirements for Additional Dwelling Units going forward.

To implement the required regulation changes, amendments are required to the City's Zoning By-laws. The proposed amendments to Zoning By-law No. 05-200 and the Zoning By-laws of the Former Communities are presented in Appendix "A" to Appendix "G" attached to Report PED24208(a).

Regarding terminology, Additional Residential Units are referred to as Additional Dwelling Units in the City's Official Plans and Zoning By-laws. The terms are used interchangeably in this Report.

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**Alternatives for Consideration – See Page 8**

**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 on January 24, 2025.

The Urban Hamilton Official Plan contains policies to permit Additional Dwelling Units 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 Additional Dwelling Units, attached as Appendix “A” to Appendix “G” to Report PED24208(a), are not permitted because the City’s Official Plan contains policies permitting Additional Dwelling Units.

**HISTORICAL BACKGROUND**

In 2022, through the *More Homes Built Faster Act, 2022*, changes were made to the *Planning Act* to accelerate implementation of the Province’s Additional Residential Unit framework. A municipality cannot pass a by-law that would prohibit up to three residential units per lot on urban residential land.

Bill 185, *Cutting Red Tape to Build More Homes Act, 2024* received Royal Assent on June 6, 2024. Bill 185 enacted the following change to the *Planning Act* affecting Additional Residential Units:

- **Subsection 35.1 (2)** authorizes the Minister to make regulations establishing requirements and standards with respect to a second or third residential unit in a detached house, semi-detached house or rowhouse and with respect to a residential unit in a building or structure ancillary to such a house, a parcel of land where such residential units are located or a building or structure within which such residential units are located.

Accompanying Bill 185, Environmental Registry of Ontario Posting #019-8366 - Removing Barriers for Additional Residential Units, proposed an enhanced regulation-

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making authority providing the Minister with broader authority to remove municipal zoning by-law barriers that may be limiting development of Additional Residential Units. The City expressed opposition to the proposed unilateral decision-making authority, advising that while staff are supportive of the promotion of Additional Residential Units to provide infill and intensification opportunities, mandating specific development regulations that do not consider appropriate integration into an existing community does not represent good planning. The City's full response can be found in Appendices "A" and "A1" attached to Report PED24097.

Environmental Registry of Ontario Posting #019-9210 proposed amendments to Ontario Regulation 299/19 to introduce performance standards that would apply to all lands across the province that would permit Additional Residential Units, including maximum lot coverage, angular planes, floor space index, minimum separation distances, and minimum lot sizes on parcels of urban residential land subject to the Additional Residential Unit framework in the *Planning Act*. The City expressed opposition to the proposed province-wide performance standards as they are unable to address context-specific conditions. The concept of a one-size-fits-all approach to a geography as vast and varied as Ontario does not, in the opinion of staff, represent good planning. The City's full response can be found in Appendix "A" to Report PED24208.

## **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 including the *Planning Act*, *Ontario Heritage Act*, and the *Development Charges Act*, amongst others. The City of Hamilton approved regulations for Additional Dwelling Units (By-law Nos. 21-071 to 21-077 (inclusive)) which implemented these provincial requirements.

Bill 185, *Cutting Red Tape to Build More Homes Act*, 2024 received Royal Assent on June 6, 2024. Subsequently, on November 20, 2024, the Province filed Ontario Regulation 462/24, an amendment to Ontario Regulation 299/19 – Additional Residential Units, to remove certain zoning by-law regulations which would impact parcels of urban residential land subject to the Additional Residential Units framework in the *Planning Act*.

The regulations established in Ontario Regulation 462/24 render certain Additional Dwelling Unit Zoning By-law regulations not to be in force and effect. Therefore, the proposed modifications to existing Additional Dwelling Unit regulations (Urban Area) in Zoning By-law No. 05-200 and the Zoning By-laws of the former Communities facilitate alignment between Provincial and Municipal regulations.

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## **2.0 Urban Hamilton Official Plan**

On May 12, 2021, Hamilton Council approved Additional Dwelling Unit regulations on the basis that they comply with the Urban Hamilton Official Plan and Rural Hamilton Official Plan. These changes included proposed policy changes to implement Bill 108, *More Homes, More Choice Act*, 2019. Based on the foregoing, the proposed Zoning By-law Amendments comply with the Urban Hamilton Official Plan.

### **RELEVANT CONSULTATION**

Notice of these amendments was posted in the Hamilton Spectator on January 24, 2025.

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The City has been a leader in the advancement of Additional Dwelling Unit permissions and has demonstrated a commitment to this form of development in order to achieve the City's housing goals. While the *Planning Act* establishes province-wide as-of-right permissions for up to three residential units on a lot where residential uses are permitted, the City has gone beyond the Provincial requirement by permitting up to four dwelling units on most residential properties in the urban area of Hamilton. As such, nearly 18% of all residential dwelling units approved by Building Permit in 2024 were Additional Dwelling Units.

Ontario Regulation 462/24 introduced performance standards that would apply to all lands across the province that permit Additional Dwelling Units. The performance standards include maximum lot coverage, angular planes, floor space index, minimum separation distances, and minimum lot sizes on parcels of urban residential land subject to the Additional Dwelling Unit framework in the *Planning Act*.

Of the above-noted performance standards, staff have determined that amendments are required to Zoning By-law No. 05-200 and the former Community Zoning By-laws to address maximum lot coverage and minimum separation distances in all by-laws, and floor space index requirements in the former Hamilton Zoning By-law No. 6593.

#### **1.0 Maximum Lot Coverage**

Lot coverage requirements are typically intended to manage scale, intensity of use, and constraints like stormwater servicing capacity. Zoning By-law No. 05-200 does not typically regulate lot coverage within each zone, and instead regulates the buildable area through setback, maximum height, and minimum landscaping requirements. The

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former Community Zoning By-laws employ a range of lot coverage requirements depending on the zone and type of use.

Ontario Regulation No. 462/24 regulates that up to 45% of the surface of a parcel is permitted to be covered by buildings and structures on lands where a detached Additional Dwelling Unit is located. Hamilton currently requires the following lot coverage framework on lots where a detached Additional Dwelling Unit is located:

- “i) The maximum gross floor area shall not exceed the lesser of 75 square metres or the gross floor area of the principal dwelling.
  - i) Notwithstanding Section 4.33.2 i), the maximum combined lot coverage of all accessory buildings and the Additional Dwelling Unit - Detached shall be 25%.
  - ii) In addition to Section 4.33.2 i), the ground floor area of an Additional Dwelling Unit – Detached shall not exceed 70% of the ground floor area of the principal dwelling when the ground floor area of the principal dwelling is less than or equal to 105 square metres.”

Hamilton’s current approach is intended to ensure detached Additional Dwelling Units are compatible in scale with existing built form characteristics across neighbourhoods and to respond to individual municipal requirements for maintaining pervious surface on a lot to manage impacts on stormwater infrastructure.

Based on an interpretation provided by Legal and Risk Management Services staff, the Zoning By-law can continue to regulate the gross floor area of individual buildings and structures on a lot containing a Detached Accessory Dwelling Unit, if these gross floor area regulations permit up to a 45% lot coverage as required by Ontario Regulation No. 462/24.

Staff conducted a review of Hamilton’s current lot coverage framework and detached Additional Dwelling Unit Building Permit data for permits issued between 2019 and February 2024 in order to determine the impact on the current local framework and development patterns. The intention is to strike a balance between Hamilton’s regulatory intent and alignment with the Province’s new requirements. Staff reviewed lot area, primary dwelling gross floor area, detached additional dwelling unit gross floor area, accessory building gross floor area, landscaped area, and Minor Variance information for 27 of the 83 building permit permits approved for detached Additional Dwelling Units during this timeframe. The total lot coverage for all buildings and structures on each property ranged from 17% to 51%, with only three of those

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properties exceeding 45%. The majority of properties had lot coverages between 20% and 30%.

Staff found that while a limited number of detached Additional Dwelling Units underwent Minor Variance approval for a gross floor area exceeding 75 square metres or exceeding the gross floor area of the principal dwelling, the majority of detached Additional Dwelling Units have been able to comply with this size restriction while still achieving a total lot coverage less than 45% for all buildings and structures on the lot.

Thus, staff propose to maintain Hamilton's current regulatory framework limiting the gross floor area in relation to the principal dwelling, with a modification from a 25% lot coverage for accessory buildings and detached Additional Dwelling Units to a 45% lot coverage for all buildings and structures on a lot containing a detached Additional Dwelling Unit.

Certain zones within the Stoney Creek Zoning By-law No. 3692-92 contain a less restrictive lot coverage permission than the proposed 45% (e.g. the R1, R2, R3, R4, R5, RM1, RM2, and RM3 Zones permit up to 50% lot coverage as-of-right). Staff's understanding of the Province's intent is to increase general lot coverage permissions to allow flexibility in Accessory Dwelling Unit configurations on the lot. Thus, the less restrictive permissions have been protected, and the affected properties will not be subject to the new 45% requirement where the as-of-right lot coverage permissions are greater. Staff note that as more properties are brought into Zoning By-law No. 05-200 through the Planning Division's zoning work plan, the less restrictive permissions within the Former Stoney Creek Zoning By-law will be phased out and all properties would be subject to the 45% lot coverage regulations that will be contained within Zoning By-law No. 05-200.

## **2.0 Minimum Separation Distance**

Ontario Regulation No. 462/24 regulates that a building or structure shall be at least 4.0 metres from another building or structure on the parcel if the other building or structure contains a residential unit, whereas Hamilton's current regulatory framework requires a separation distance between a principal dwelling and a detached Additional Dwelling Unit of 7.5 metres when the detached Additional Dwelling Unit is located in the rear yard, and 4.0 metres when it is located in the side yard.

An amendment is required to Zoning By-law No. 05-200 and all former Community Zoning By-laws to facilitate the 4.0 metre minimum separation distance for detached Additional Dwelling Units located in the rear yard.

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**3.0 Floor Space Index**

Ontario Regulation No. 462/24 regulates that subject to any maximum height and minimum setback requirements in the zoning by-law, there is no limit to the floor space index of the parcel. The former City of Hamilton Zoning By-law No. 6593 currently employs a Floor Area Ratio requirement in a limited number of residential zones, and thus requires an amendment to establish that it no longer applies as it relates to parcels containing detached Additional Dwelling Units.

**ALTERNATIVES FOR CONSIDERATION**

Council could choose to not approve the draft Zoning By-law Amendments. As a result, the City will fail to meet the provincial requirements for Additional Dwelling Units as set out in the Planning Act.

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A” to Report PED24208(a) – Draft By-law to Zoning By-law No. 05-200
- Appendix “B” to Report PED24208(a) – Draft By-law to Town of Ancaster Zoning By-law No. 87-57
- Appendix “C” to Report PED24208(a) – Draft By-law to Town of Dundas Zoning By-law No. 3581-86
- Appendix “D” to Report PED24208(a) – Draft By-law to Town of Flamborough Zoning By-law No. 90-145-Z
- Appendix “E” to Report PED24208(a) – Draft By-law to Township of Glanbrook Zoning By-law No. 464
- Appendix “F” to Report PED24208(a) – Draft By-law to City of Hamilton Zoning By-law No. 6593
- Appendix “G” to Report PED24208(a) – Draft By-law to City of Stoney Creek Zoning By-law No. 3692-92

MG/na