

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

Bill No. 071

CITY OF HAMILTON

BY-LAW NO. 21-071

**To Amend Zoning By-law No. 05-200, 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 is in conformity with the Urban and Rural Hamilton Official Plans.

NOW THEREFORE Council amends Zoning By-law No. 05-200 as follows:

1.0 That SECTION 3: DEFINITIONS of By-law No. 05-200 be amended by adding the following new definitions:

Ditch	Shall mean a small to moderate excavation created to channel water.
Secondary Dwelling Unit	Shall mean a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling and shall not include a Farm Labour Residence.
Secondary Dwelling Unit – Detached	Shall mean a separate and self-contained detached Dwelling Unit that is accessory to and located on the same lot as the principal dwelling but shall not include a Farm Labour Residence.
Swale	Shall mean a graded or engineered landscape feature appearing as a linear, shallow, open channel to provide for water drainage.

1.1. That SECTION 3: DEFINITIONS of By-law No. 05-200 be amended by revising the following definition:

Farm Labour Residence	Shall mean accommodation for full-time farm labour where the size and nature of the farm operation requires additional employment.
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2.0 That SECTION 4: GENERAL PROVISIONS of Zoning By-law No. 05-200 be amended as follows:

2.1 That SECTION 4.12: VACUUM CLAUSE of Zoning By-law No. 05-200 be amended by:

i) adding a new Subsection h) as follows:

“h) Notwithstanding Sections 1.4 and 1.7 of this By-law, a Building Permit for a Secondary Dwelling Unit may be issued in accordance with any minor variance, site specific zoning, or 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 05-200, 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 Subsection h) above.
- ii) Once the permit or approval under Subsection h) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.”

2.2. That SECTION 4.22: ADEQUATE SERVICES of Zoning By-law No. 05-200 is amended by:

i) deleting the word ‘and’ at the end of clause ii); and,

ii) renumbering clause iii) to iv);

iii) adding a new clause iii) as follows:

“iii) For lands in a Rural zone,

1. An approved waste disposal and water supply systems to sustain the use of land for buildings shall be provided and maintained to the satisfaction of the Chief Building Official; and,
 2. All regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”
- 2.3. That SECTION 4: GENERAL PROVISIONS of Zoning By-law No.05-200 be amended by adding the following new subsection:

“4.33 SECONDARY DWELLING UNIT AND SECONDARY DWELLING UNIT - DETACHED

Where a Single Detached Dwelling, Semi-Detached Dwelling or Street Townhouse Dwelling is permitted in this by-law, the following regulations apply:

- a) For lands within a Downtown (D5) Zone, Institutional Zone, Commercial and Mixed Use (C1) Zone, Transit Oriented Corridor (TOC3) Zone, Agriculture (A1), Rural (A2) or Settlement Residential (S1) Zone, a maximum of one Secondary Dwelling Unit shall be permitted within a Single Detached Dwelling, a Semi-Detached Dwelling or Street Townhouse Dwelling.
- b) For lands within a Downtown (D5) Zone, Institutional Zone, Commercial and Mixed Use (C1) Zone or Transit Oriented Corridor (TOC3) 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.
- c) Section 4.5a) shall not apply to a Secondary Dwelling Unit – Detached.
- d) A Secondary Dwelling Unit shall be permitted in each semi-detached or street townhouse dwelling unit on a non-severed lot.
- e) A single detached dwelling on one lot containing one Secondary Dwelling Unit, Secondary Dwelling Unit – Detached, or both, shall not be considered a duplex or triplex.
- f) A semi-detached dwelling on one lot containing one Secondary Dwelling Unit, one Secondary Dwelling Unit – Detached, or both, shall not be considered a triplex or multiple dwelling.

- g) 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 multiple dwelling.
- h) Parking shall be provided in accordance with Section 5 of this by-law.
- i) Notwithstanding Sections 5.1b)i) and 5.1b)ii), parking for a Secondary Dwelling Unit and Secondary Dwelling Unit – Detached may be provided in the required front yard in accordance with Section 5 of this by-law.
- j) Notwithstanding Section 5.2e)i)a), permeable pavers may also be permitted.
- k) Notwithstanding Section 5.6a) and c), for a lot containing a Secondary Dwelling Unit, a Secondary Dwelling Unit - Detached, or both, identified in Special Figure 24 to Schedule “F”, no additional parking space or spaces shall be required, provided the number of legally established parking spaces, which existed as of May 12, 2021, shall continue to be provided and maintained.
- l) A Secondary Dwelling Unit – Detached shall only be permitted in a Rear and interior Side Yard.
- m) In the case of a through lot, a Secondary Dwelling Unit – Detached shall be permitted, in accordance with the following provisions:
 - i) A lot shall not be considered a through lot when abutting a laneway.
 - ii) Where a lot abuts two streets that are not a laneway, 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.
- n) Except as provided in Subsection 4.33q), the exterior appearance and character of the front façade of the Single Detached Dwelling, Semi-Detached Dwelling or Street Townhouse Dwelling shall be preserved.
- o) There shall be no outside stairway above the first floor other than an required exterior exit.
- p) 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

- q) Notwithstanding 4.33p), an additional entrance may be located on the front façade of the building for lands identified on Special Figure 24 to Schedule “F”.
- r) 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:
 - i) A landscaped area of 8.0 square metres for each dwelling unit less than 50.0 square metres; and,
 - ii) A landscaped area of 12.0 metres for each dwelling unit 50.0 square metres or more.

4.33.1. REGULATIONS FOR SECONDARY DWELLING UNIT - DETACHED

- a) A legally established accessory building existing as of May 12, 2021 in a Downtown (D5) Zone, Institutional Zone, Commercial and Mixed Use (C1) Zone or Transit Oriented Corridor (TOC3) 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:
 - 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 4.33 a), c) to l), n), and r) and Subsections 4.33.1 (b) of this Zoning By-law;
- b) A Secondary Dwelling Unit – Detached in a Downtown (D5) Zone, Institutional (I1) Zone, Institutional (I2) Zone, Commercial and Mixed Use (C1) Zone or Transit Oriented Corridor (TOC3) Zone shall be subject to the following provisions:
 - 1. Notwithstanding Section 4.8, only Subsections 4.8 b), 4.8.h), and 4.8.1.1 e) shall apply.
 - 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 4.33.1 b)3), permeable pavers may be permitted where a parking space and driveway abut a laneway or street.
5. Notwithstanding Section 4.33.1 b)3), where the entrance to the Secondary Dwelling Unit - Detached faces a laneway, the rear yard may be reduced to a minimum 0.3 m.
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 4.33r) shall be screened on two sides by a visual barrier that has a minimum height of 0.3 metres.
15. A Secondary Dwelling – Detached shall not be permitted within a *swale* or *ditch*.

4.33.2 SECONDARY DWELLING UNITS IN AGRICULTURE (A1), RURAL (A2) AND SETTLEMENT RESIDENTIAL (S1) ZONES

- a) A Secondary Dwelling Unit shall only be permitted on lands within a Agriculture (A1), Rural (A2) or Settlement Residential (S1) Zone shall only be permitted on a lot that is greater than 0.6 ha in size.
- b) Notwithstanding 4.33.2a), a Secondary Dwelling Unit shall not be permitted on lands identified in Special Figures 24.1 to 24.5.
- c) The waste disposal and water supply systems shall be in accordance with Section 4.22 iii).

3. That SECTION 5: PARKING REGULATIONS of By-law 05-200 is amended as follows:

3.1 That Subsection 5.6a) PARKING SCHEDULES be amended by adding the following new clause:

“a) Parking Schedule for all Downtown Zones

Column 1	Column 2
i. Residential Uses	

Column 1	Column 2
Secondary Dwelling Unit Secondary Dwelling Unit - Detached	1 per unit

3.2 That Subsection 5.6c) PARKING SCHEDULES be amended by adding the following new clause:

“c) Parking Schedule for all Zones, except the Downtown Zones

Column 1	Column 2
i. Residential Uses	
Secondary Dwelling Unit Secondary Dwelling Unit - Detached	1 per unit
vii. Uses in A1 and A2 Zones	
Secondary Dwelling Unit	1 per unit

3.3 That Subsection 5.1b)x) be deleted in its entirety.

4.0 That SECTION 6.5: DOWNTOWN RESIDENTIAL (D5) ZONE be amended by adding a new Subsection as follows:

“6.5.3.8 SECONDARY DWELLING UNIT REGULATIONS In accordance with the requirements of Section 4.33. of this By-law.”

5.0 That SECTION 8.1: NEIGHBOURHOOD INSTITUTIONAL (I1) ZONE be amended by adding a new Subsection as follows:

“8.1.3.8 SECONDARY DWELLING UNIT REGULATIONS In accordance with the requirements of Section 4.33. of this By-law.”

6.0 That SECTION 8.2: COMMUNITY INSTITUTIONAL (I2) ZONE be amended by adding a new Subsection as follows:

“8.2.3.9 SECONDARY DWELLING UNIT REGULATIONS In accordance with the requirements of Section 4.33. of this By-law.”

- b) An Accessory detached bunk house of temporary construction, where cooking and sanitary facilities are shared.
- ii) Amending existing clause j) ii) to delete the words “Where a Farm Labour Residence is in the form of a temporary detached Dwelling or temporary bunk house,” in the first paragraph.
- iii) Deleting clause j) iii) in its entirety.

9.2 Adding a new Subsection as follows:

“12.1.3.4 SECONDARY DWELLING UNIT REGULATIONS In accordance with the requirements of Section 4.33. of this By-law.”

10.0 That SECTION 12.2: RURAL (A2) ZONE be amended as follows:

10.1 That Subsection 12.2.3.1 AGRICULTURE AND VETERINARY SERVICE – FARM ANIMAL REGULATIONS be amended by:

- i) Adding a new clause j) i) as follows and renumbering the existing clauses j) i) and j) ii) to j) ii) and j) iii) :
 - i) A Farm Labour Residence, Accessory to Agriculture and on the same lot as an existing permanent principal Farm Dwelling, may be permitted in the following forms:
 - a) An Accessory detached dwelling of temporary construction, such as a mobile home; or,
 - b) An Accessory detached bunk house of temporary construction, where cooking and sanitary facilities are shared.
 - ii) Amending existing clause j) ii) to delete the words “Where a Farm Labour Residence is in the form of a temporary detached Dwelling or temporary bunk house,” in the first paragraph.
 - iii) Deleting clause j) iii) in its entirety.

10.2 Adding a new Subsection as follows:

“12.2.3.8 SECONDARY DWELLING UNIT REGULATIONS In accordance with the requirements of Section 4.33. of this By-law.”

11. That SECTION 12.3: SETTLEMENT RESIDENTIAL (S1) ZONE be amended by adding a new Subsection as follows:

“12.3.4 SECONDARY DWELLING In accordance with the requirements of
 UNIT REGULATIONS Section 4.33. of this By-law.”
12. That SECTION 13.3: TRANSIT ORIENTED CORRIDOR – MULTIPLE RESIDENTIAL (TOC3) ZONE be amended by adding a new Subsection as follows:

“11.3.8 SECONDARY DWELLING In accordance with the requirements of
 UNIT REGULATIONS Section 4.33. of this By-law.”
13. That Special Exception 375 in SCHEDULE “C” – Special Exceptions be amended as follows.
 - i) Existing clause b) be renumbered as c);
 - ii) a new clause b) be added as follows:
 - b) In addition to clause a), a Secondary Dwelling Unit may be permitted within a legally established single detached dwelling, semi-detached dwelling, street townhouse, or block townhouse dwelling existing as of May 26, 2010.
14. That Schedule “F” to Zoning By-law No. 05-200 be amended by including new Special Figures 24, and 24.1 to 24.5 inclusive to this By-Law.
15. 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*.
16. 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*.
17. 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











