



Hamilton

Creating a House and Home

Discussion Paper for the creation of Second Dwelling Units in Hamilton

Proposed Policy and Planning Regulations for Single Detached, Semi-Detached, and Street Townhouse Dwellings in the Urban Area

Planning Division
Planning and
Economic
Development
Department



**RESIDENTIAL
ZONES**
ZONING BY-LAW NO. 05-200

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Executive Summary

A Second Dwelling Unit (SDU) is a self-contained and independent dwelling unit located on the same lot as the main dwelling located inside an existing building (basement apartment or attic space), as an addition to an existing dwelling, or in a detached building (e.g. converted garage or Laneway House). Housing is a broad topic and is multi-faceted. Permitting SDUs is one of many approaches to increasing housing supply in the City. This Discussion Paper focuses on permitting SDUs in Single Detached, Semi-Detached, and Street Townhouse (also called Rowhouse) Dwellings.

The Provincial planning framework requires municipalities to permit SDUs in its municipal Official Plan and Zoning By-law within an existing Single Detached Dwelling, Semi-Detached Dwelling, and Row House Dwelling, though an addition to an existing dwelling or as a separate detached unit on a lot with a dwelling.

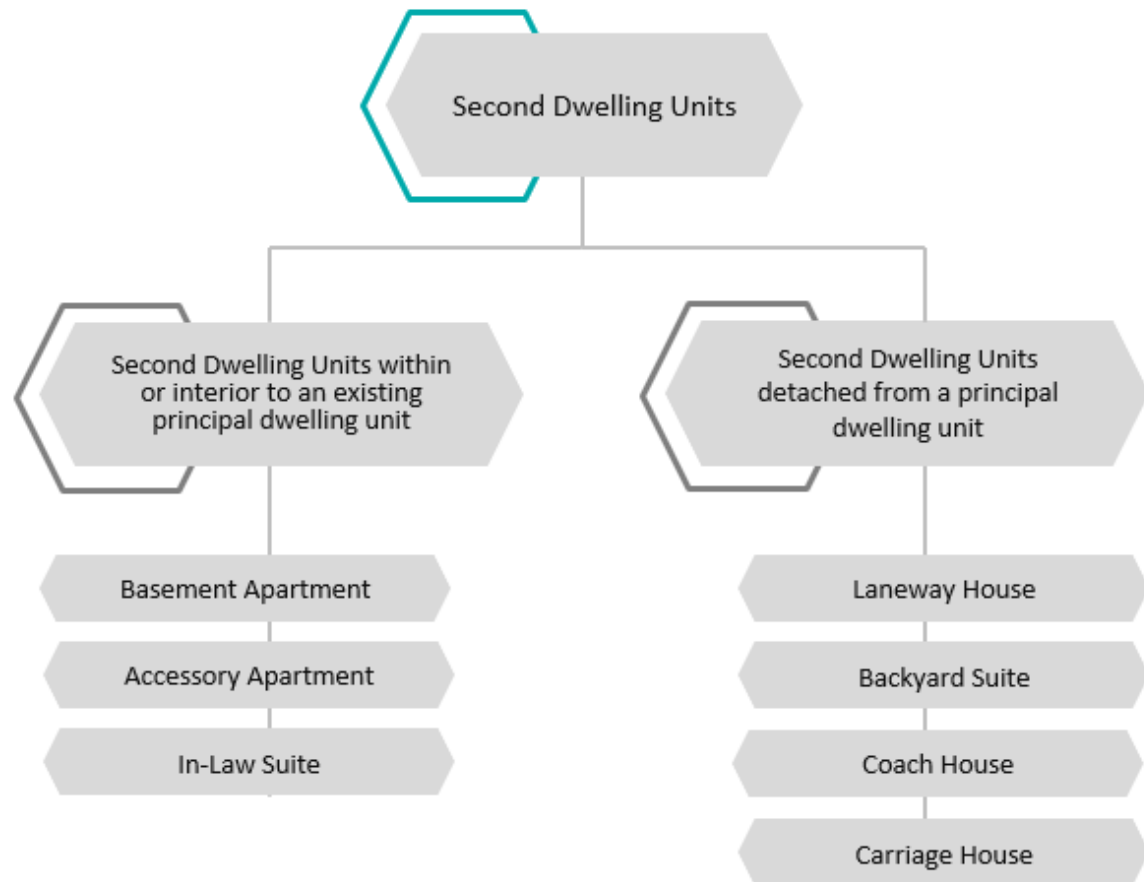
Through Bill 108, flexibility has been given to municipalities to address local issues and to establish zone regulations to integrate SDUs within neighbourhoods. This Discussion Paper provides general information on the characteristics of a SDU, Provincial and Municipal requirements, and a range of approaches to respond to the issues. These issues are categorized into the themes of design of the unit, privacy, backyard use, and parking. The regulations will be further refined through consultations with the community.



The purpose of this Discussion Paper is to start the conversation about SDUs within the Urban Area of Hamilton, including how SDUs can benefit residents, tenants, and homeowners and will inform the development of SDU regulations for the rural area. Throughout this Discussion Paper, there are “thought bubbles” with questions about specific issues. The purpose of these “bubbles” is less to do with providing feedback but rather allowing the reader to begin thinking about SDUs within their community, and sharing their experiences with SDUs. Please feel free to jot down as many notes as you like. However, a workbook with the same “thought bubbles” will be available at the Residential Zone project page within the Engage Hamilton portal at <https://engage.hamilton.ca/>, and your feedback can be submitted to the Planning Division either by email at residentialzoning@hamilton.ca or by regular mail at 71 Main Street West, Hamilton ON L8P 4Y5.

As regulations are necessary to ensure SDUs are compatible within the community while at the same time not be a barrier to SDUs, this Paper introduces suggested approaches and options to address technical requirements; design elements; and, parking requirements for SDUs.

This Paper and feedback received in the future will inform the new Residential Zones in Zoning By-law No. 05-200.



Summary of Identified Issues and Themes

Should the City...	Themes
Regulate the size of the SDU or create some flexibility and not have a maximum floor area for SDUs?	Intensity of Use
For establishing new Detached Second Dwelling Units:	
Establish a maximum floor area of 50 square metres and a maximum lot coverage to ensure overbuilding does not occur?	Intensity of Use
Establish a minimum distance from the side and rear property lines to provide a separation from abutting properties?	Intensity of Use
Establish a maximum building height to 6.0 metres (or about 1.5 storeys)? Should it go higher or lower?	Intensity of Use
Establish a minimum 7.5 metres distance between the main house and the detached SDUs in the rear yard?	Intensity of Use
Allow or prohibit windows on the first and second floors beyond a minimum setback from property lines to facilitate privacy with abutting lands?	Property Impacts
Allow or prohibit balconies, exterior stairs, and rooftop patios on the second floor, but not including fire escapes and stairs?	Property Impacts
For Converting Existing Accessory Buildings into Detached Second Dwelling Units:	
Allow the homeowner to convert an existing accessory building as-of-right (i.e. without needing to meet certain zone requirements including height and distance from lot line (also called “vacuum clause”))?	Intensity of Use
Apply regulations for additions to existing accessory buildings to comply with the new construction?	Intensity of Use

Should the City...	Themes
Entrances to the Second Dwelling Unit:	
On corner lots allow one entrance on each side of the dwelling that faces the street?	Neighbourhood Appearance
On interior lots allow two front doors facing the street (such as having one front door for the main house, one front door for the SDU)?	Neighbourhood Appearance
Parking Design and Parking Requirement for Second Detached Dwellings:	
Consider parking requirements for SDUs based on geographic area? Establish a city-wide requirement followed by potential area-specific reductions based on existing conditions.	Parking Requirement for SDUs
Allow corner lots to establish one driveway for each side facing the street?	Parking, Driveway
For interior lots, allow or prohibit a second driveway?	Parking, Driveway

1.0 Introduction and Purpose

The *Planning Act* was recently amended through Bill 108 to require Hamilton to develop and implement policies to allow for Second Dwelling Units (SDU) in Single Detached, Semi-Detached, and Row Housing (street townhouses). The City has flexibility to develop zoning regulations that facilitate SDUs, while at the same time set parameters that are a barrier to SDUs, and ensure SDUs are appropriately accommodated without impacting adjacent neighbours. There is a diversity of housing stock in Hamilton in both established and developing neighbourhoods. This means that not every residential lot in Hamilton may be able to accommodate an SDU based on a variety of factors such as lot size and built form. The purpose of this Discussion Paper is to inform and seek public input on proposed regulations that will be incorporated into Hamilton Zoning By-law No. 05-200.

This Discussion Paper provides background information on SDUs from a land use planning perspective. SDUs offer additional housing options for a wide range of age groups, lifestyles choices, and household sizes. However, as rents are determined by the property owner, zoning regulations and permissions for SDUs cannot regulate the issue of affordable housing, although traditionally SDUs provide for more affordable housing costs due to the lower per unit costs to construct. SDUs are a different housing type and format to duplexes and triplexes. Duplexes are purpose built 2 unit buildings and triplexes are larger in size and require larger lots to accommodate the required parking and amenity space. Duplexes and triplexes may have different sets of Zoning By-law regulations than single detached, semi-detached and row housing.



Have you Ever...

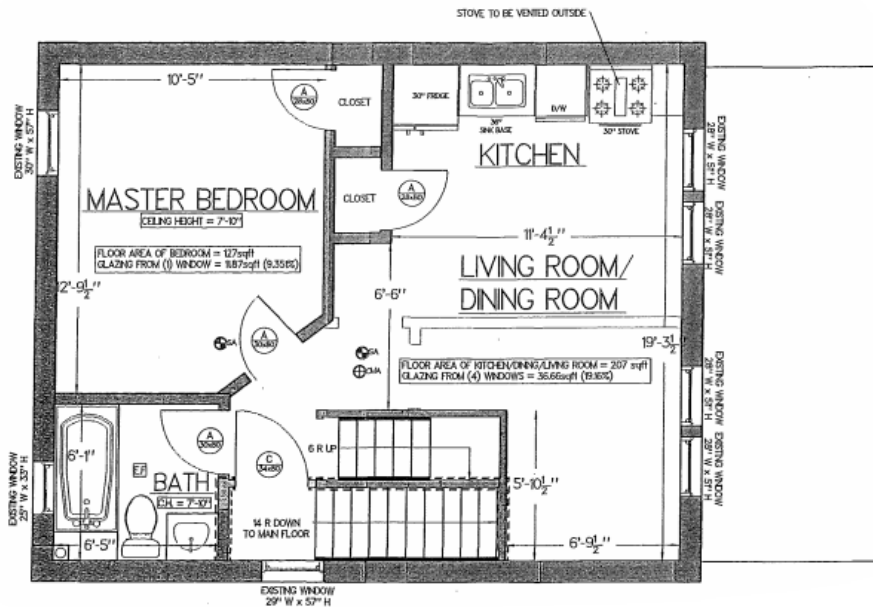
Lived in an SDU before?



Yes



No



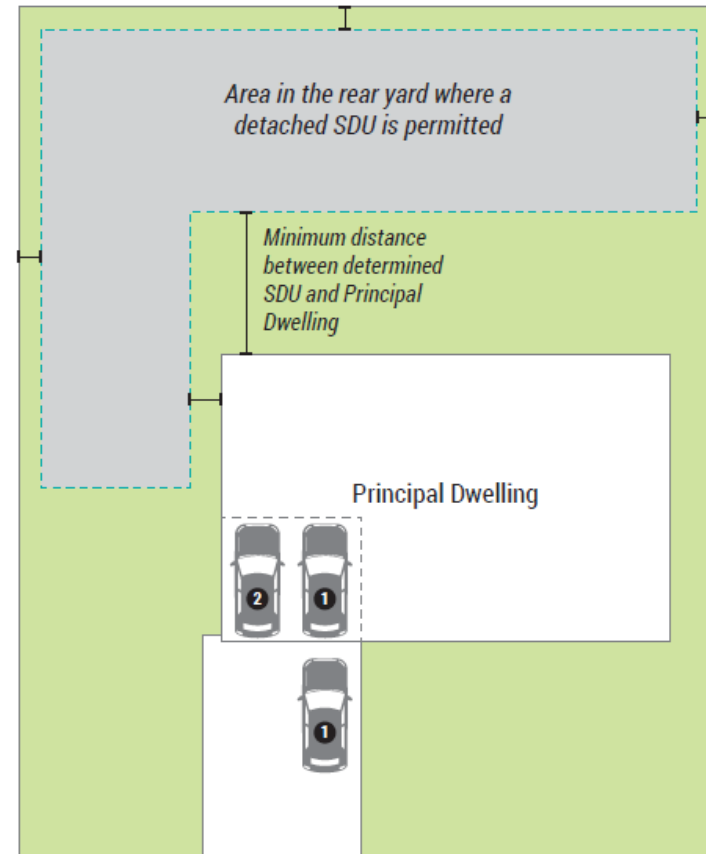
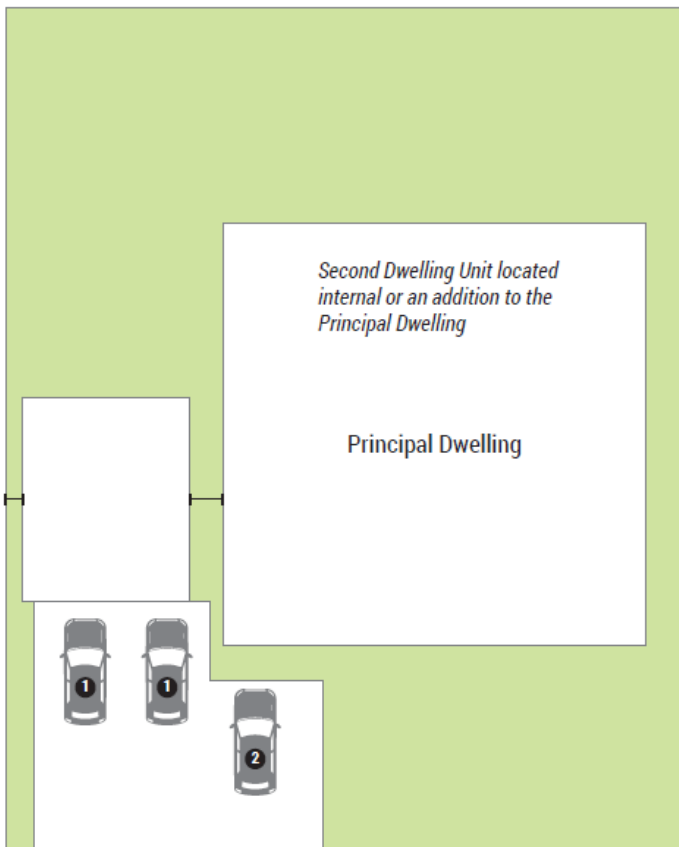
Example of an SDU Floor Plan submitted to Hamilton's Committee of Adjustment

This Discussion Paper focuses on Official Plan Policy and Zoning Regulations for SDUs. The following matters are beyond the scope of this paper.

- Short term rental housing/accommodations.
- Supply of Rental Housing stock and the cost of rent.
- Alternative forms of housing:
 - Student Housing and Student Residences;
 - Lodging Homes and co-housing;
 - Group homes, residential care facilities (Refer to Discussion Paper titled “Residential Care Facilities, Group Homes, Human Rights and the Zoning By-laws within the Urban Area”); and,
 - Movable “Tiny homes” on wheels, trailers, or temporary foundations.
- Housing conditions such as maintenance and repairs as these are enforced through the Building Code (OBC) and the Property Standards By-law (By-law No. 10-221);
- The licensing of rental housing, including SDUs;
- Tenant/Landlord relationships; and,
- Owner occupancy of the principal dwelling.

2.0 Second Dwelling Units – What Are They?

There are many terms used to describe an SDU. An SDU can be constructed as a (1) newly constructed detached unit; (2) a conversion of an existing accessory building; or, (3) within the existing space through an addition to the main dwelling or a combination of both. The presence of an SDU within a dwelling however does not mean the building is converted into a duplex, as a duplex is a different housing type and have their own set of Zoning By-law regulations. Further, duplexes are not permitted in all Residential Zones or zones which permit residential uses, whereas the intent is that a SDU will be permitted in the Zoning By-law in a Single Detached, Semi-Detached, and/or a Row House dwelling.



What are some Common Characteristics of a Second Dwelling Unit?

The SDU must be:

- Self contained with its own kitchen, bathroom, living area, and have a separate entrance;
- Smaller in floor area than the principal building;
- Located on the same lot as the principal dwelling;
- Under the same ownership of the principal dwelling, intended to be rented out, and not sold as a separate dwelling; and,
- Contained in a permanent building (i.e. cannot be moved like a recreational vehicle or trailer home) if detached.

2.1 What About Laneway Housing?

A Laneway House is a form of SDU and a Pilot Project approved by Council in 2018 to remove zoning barriers to the creation of Laneway Housing. The pilot project applies to lands bounded by Burlington Street to the north, Hwy 403 to the west, the Niagara Escarpment to the south, and the Red Hill Valley to the east. Downtown Hamilton is not in the pilot project due to the existing flexible zoning that already permits a variety of housing types and built forms.

Laneway Houses are permitted in the pilot project area in conjunction with a Single Detached Dwelling, provided they abut a laneway, and meets the required conditions, as noted in the box to the right.

Hamilton's Laneway Housing Pilot Project (By-law No. 18-299)

- Permits accessory dwelling units within standalone buildings on lots that adjoin a laneway;
- Establishes a maximum height of 6.0 metres and a maximum gross floor area of 50 square metres;
- Restricts the location of doors and windows above the 1st floor for privacy;
- No requirement for additional parking; and,
- Severances not permitted to create a new lot for the Laneway House.

2.2 Second Dwelling Units in Heritage Buildings

Significant built heritage resources exist within the City of Hamilton. Built heritage is an important consideration when developing regulations for SDUs. Heritage properties throughout the City fall into the following categories:

- **Part IV designations** consist of individual properties that are deemed by municipal by-law to have cultural heritage value or interest. Alterations, additions, and demolition occurring on the property may require a heritage permit. (275 properties)
- **Part V designations** comprise an area or grouping of properties collectively designated by a single municipal by-law as a Heritage Conservation District (HCD). Alterations, additions, or demolition within one or more of the properties may require a heritage permit. (349 properties)
- **Registered properties** consist of individual properties not designated under Part IV or Part V of the *Ontario Heritage Act* but are deemed to have cultural heritage value or interest. An owner / applicant is required to give 60 days notice for any application to demolish structures or properties that are in the municipal *Register of Properties of Cultural Heritage Value / Interest*, in addition to a Heritage Impact Assessment report. (1,576 properties)
- **Listed properties** are individual properties having architectural and / or historical interest. Inclusion in this inventory is not a legal encumbrance under the *Ontario Heritage Act*, but the Inventory is used by City staff to identify when potentially significant cultural heritage features may be impacted through the planning process. Substantial proposed impacts through demolition, alteration, or new construction on significant “listed” property may warrant a heritage impact assessment, or simply comments on how to accommodate alterations in a fashion sympathetic to the built heritage. (6,791 properties)



Where properties are identified as having heritage value, attention should be paid to the specific heritage attributes meant to be protected. For designated properties, a determination will be made on whether a proposed SDU will have an impact on these heritage features, and a Heritage Permit and / or Heritage Impact Assessment may be required for any additions or alterations to the building. For properties that are either on the Registry or Inventory, if the proposed SDU complies with the Zoning By-law, no additional municipal planning approvals would normally be required. Notwithstanding the parent regulations for SDUs, further location restrictions and enhanced design requirements may be incorporated into the design of the SDU. For example, construction may be limited to the rear of the property, and using compatible materials to the heritage building to maintain the heritage attributes of the building.

3.0 Benefits of Second Dwelling Units

This section identifies benefits SDU provide to homeowners, tenants, and the broader community.

3.1 What are the Benefits of Second Dwelling Units?

- *Infrastructure Efficiency:* SDUs make better use of existing hard infrastructure (such as sewers and roads) and soft infrastructure (such as schools and recreational services). Statistics Canada data from 2016 shows on average in Hamilton, 3.4 persons live in a Single Detached dwelling and 1.6 persons live in an apartment. Household size changes over time. Communities and neighbourhoods go through lifecycle and household composition changes where the number of residents decline. This decline in household size and composition changes the demand for services. Adding additional population in the community helps to retain these services and businesses within the community.
- *Efficient Use of Housing Stock:* Adding an SDU to an existing dwelling can make better use of existing housing stock by converting an unfinished basement or accessory building into a new rental unit.
- *Affordable Home Ownership:* Homeowners gain additional income. This income can be especially important for someone looking to afford their first home, or a senior looking to remain in their own home by creating an additional income stream.
- *Provide Increased Housing Choice:* SDUs increase housing options and the range of rents, especially in parts of the city where there may be few rental housing options or low vacancy rates.

Do you think...

You would consider constructing an SDU in your home if you had zoning permissions?

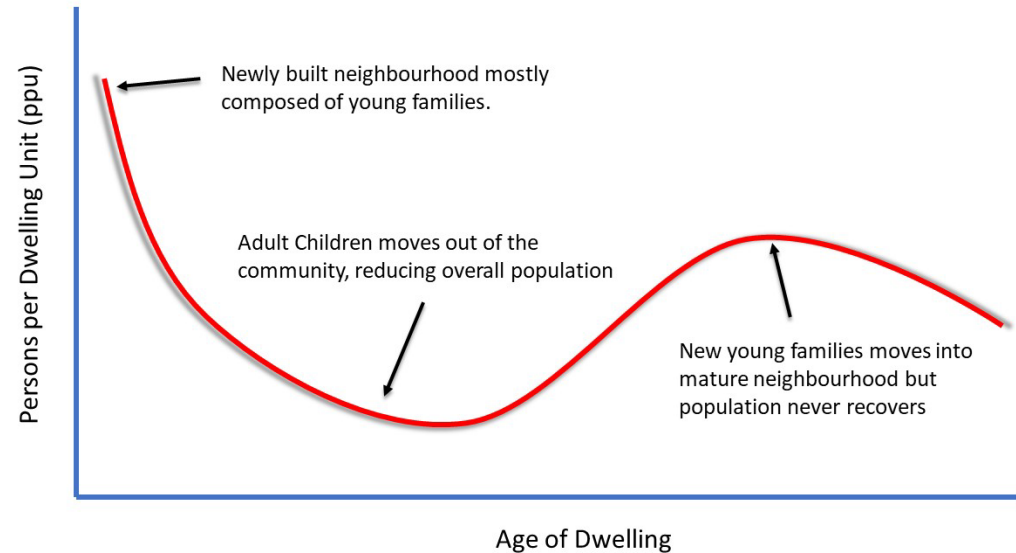


Yes



No

- *Revitalizing and Sustaining Mature Communities*: The graph to the right shows a typical lifecycle of a new residential neighbourhood from the time the community is first established until a second and subsequent generation of owners move in. As the children of first-generation owners move out, the number of persons per dwelling unit declines. Eventually, as first-generation owners age, new families move in. But typically, the resulting increase in population within the neighbourhood is not at the same peak as the original population.



Permitting SDUs is one way to offset this trend of declining neighbourhood population. Although the number of households may increase as additional dwelling units are provided, the overall population does not substantially increase. By stabilizing the population over time, important components of a community, such as community facilities, retail and personal services, are retained.

3.2 What does it mean for Hamilton?

Currently, SDUs are not permitted city-wide. SDUs are permitted in the City of Hamilton Zoning By-law No. 6593 and the Town of Dundas Zoning By-law No. 3581-86 (regardless of the year of construction). The Stoney Creek Zoning By-law No. 3692-92 permits SDUs in homes built before 1941, and Flamborough permits SDUs in homes built before 1990.

The different zoning permissions in the former municipalities have implications for both the supply of housing and housing choices across the City. Harmonizing the regulations are important for the following reasons:

- SDUs can provide an additional housing choice throughout the urban area especially where residential communities are dominated by Single Detached dwellings. Due to limited availability of other dwelling types, residents may be required to move to other communities if they are look for other housing options.
- According to the 2016 Census, there were more one and two-person private households than three and three plus person households within the City of Hamilton. This trend is consistent with the findings from the 1991 Housing Intensification Strategy, where demographic trends showed the number of single person households were to increase over time. Smaller and single-person households may not want a larger dwelling unit. Larger purpose-built multiple dwellings may not be the dwelling type of choice by households who prefer ground-related housing. SDUs can be a viable option for these smaller households.
- Addressing long term housing diversity and the ability for a broader range of households to meet their housing needs is one of several actions in Hamilton’s Strategic Plan, the Hamilton Housing & Homelessness Action Plan, and other housing and aging plans. Permitting SDUs is one means of achieving this goal.



- SDUs may not be appropriate in certain areas of the City due to environmental concerns. Permitting SDUs in a flood zone may jeopardize the health and safety of residents. One example is the Spencer Creek watershed in Dundas where existing Official Plan policies restricts residential uses to above the ground floor.
- Although the intent is to permit SDUs in the Urban and Rural Areas on lots containing Single Detached, Semi- Detached, and Street Townhouse dwellings, certain on-site constraints such as lot configuration and size, lot coverage, parking, grading and drainage may affect the ability of some homeowners to construct an SDU. Consideration is needed on a site-by-site basis to determine the feasibility of constructing an SDU. Private Servicing (both septic and well water) are additional considerations for the rural area and will require further investigation. Severances and lot creation are not permitted due to overall impacts on neighbourhood character, changes to the overall lot fabric, and overbuilding.

- This Paper does not address SDUs in the Rural Area. In 2006, Rural Hamilton Official Plan, SDU's were limited to garden suites due to servicing concerns. A review of the planning permissions for SDU's in the rural area is underway and the subject of a separate initiative. Garden Suites and farm help houses are permitted in certain Rural Zones If you live in the Rural Area and wish to build a Garden Suite, please refer to the Hamilton Zoning By-law No. 05-200 (<https://www.hamilton.ca/city-planning/official-plan-zoning-by-law/zoning-by-law-no-05-200>).



4.0 Provincial Requirements

4.1 Provincial Legislation

Since the 1990s, there have been numerous amendments to the *Planning Act* to create a stronger Provincial framework for SDU's. This framework requires municipalities to permit SDUs in their Official Plans and implementing Zoning By-law. The provincial requirements give municipalities the opportunity to determine what regulations are to be incorporated in the Zoning By-law to address issues such as parking, setbacks, and design considerations such as windows and doors. These regulations can reduce the impacts with abutting neighbours and ensure compatibility with the community.

4.1.1 Bill 140 (Strong Communities Through Affordable Housing Act, 2011)

Bill 140 received Royal Assent on May 4, 2011 and was a response by the Provincial Government to provide housing options for all financial abilities and provided clear roles and responsibilities of the municipality with respect to providing policies in their official plans, and updated regulations in the zoning by-law to address such issues.

Section 4 of Bill 140 set out a series of criteria for creating Minister's Policy Statements and Housing and Homelessness Plans. These criteria include, but are not limited to:

- Addressing the housing needs of individuals and families in order to help address other challenges they face;
- Recognizing a role for the private market in meeting housing needs;
- Allowing for a range of housing options to meet a broad range of needs; and,
- Delivering in a manner that promotes environmental sustainability and energy conservation.

Bill 140 also amended the Planning Act to declare affordable housing as a matter of Provincial Interest.

4.1.2 Bill 108 (More Homes, More Choice Act, 2019)

Bill 108 was introduced by the Provincial Government as part of a series of legislative amendments with the general goal of increasing the supply of housing across the province. Bill 108 made legislative changes to various statutes such as the *Planning Act* and *Heritage Act*. Bill 108 implements the More Homes, More Choice: Ontario's Housing Supply Action Plan. The Bill received Royal Assent on June 6, 2019.

The Planning Act, as amended by Bill 108, now requires that every municipality in Ontario, including Hamilton, amend their Official Plan and Zoning By-law to permit Second Dwelling Units in Single Detached, Semi-Detached, and Street Townhouse Dwellings. To implement the Provincial direction, Zoning By-law regulations to permit up to two additional Second Dwelling Units: interior to the existing dwelling, as an extension or addition to an existing dwelling, or as a detached accessory building in the rear or side yard (detached accessory buildings would remain prohibited in the front yard) are required.

The Province has also introduced proposed changes with respect to parking requirements for Second Dwelling Units. The changes related to parking are:

- One parking space for each of the additional residential units and the required parking space may be provided in a tandem parking arrangement;

What a Zoning By-law cannot regulate based on provincial requirements to permit SDUs

- Architecture design of a building
- Building materials used on the outside of the building
- Whether or not SDUs are permitted (Bill 108 permits up to two SDUs per lot)
- Whether the principal dwelling is owner occupied or not

What a Zoning By-law can regulate based on provincial requirements to permit SDUs

- Distance of buildings from the Front, Side, and Rear lot lines
- Maximum floor area
- Parking Requirements
- Building Height

- Where a municipal Zoning By-law requires no parking spaces for the primary residential unit, no parking spaces would be required for the additional residential units;
- Where a municipal Zoning By-law is passed that sets a parking standard lower than the Provincial standard of one parking space for each of the additional residential units, the lower municipal Zoning By-law parking standard applies; and,
- “Tandem Parking” would be defined as a parking space that is only accessed by passing through another parking space from a street, lane, or driveway.

The regulations provide clarification that an additional residential unit, would be permitted without regard to the date of construction of the primary or ancillary building.

Complementary amendments were proposed to the *Development Charges Act* through Bill 108. These changes, which have not yet been proclaimed into force, will expand the legislated residential intensification exemption to include structures ancillary to existing, or new, residential dwellings. Development charges are discussed in further detail in Section 6.3 of this Discussion Paper.

In November 2019, the Province released a primer on “tiny homes.” As part of the overall Provincial interest in increasing the options and supply of housing, “Tiny Homes” are essentially detached Second Dwelling Units located in the rear yard of a Single Detached, Semi-Detached, or Street Townhouse Dwelling and may be moveable in that they are built such that it can be easily moved to another location.

The suggested approaches to SDUs in Hamilton build upon and implement O. Reg 299/19 which is the Provincial regulation on SDUs.

4.2 Provincial Policy / Plans

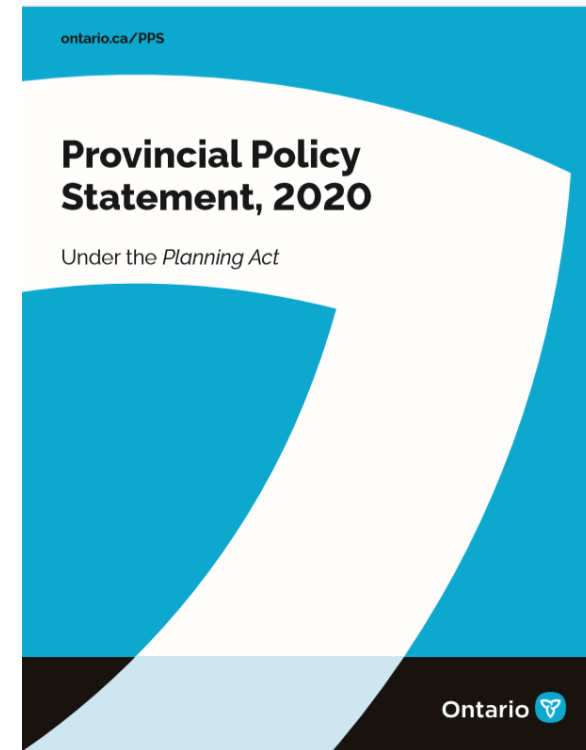
In addition to Provincial legislation, Provincial policies and plans such as A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) and the Provincial Policy Statement (2020) provide broad direction to municipalities on how and where growth should occur. The goal is for municipalities to develop “complete communities” which allows residents to work, play, and live within the same community using a variety of housing options and transportation modes such as walking, cycling, transit, and driving, and

focus intensification along higher order transit corridors and in Urban Growth Centres. The following table summarizes provincial policy documents.

Provincial Plans and Policies	Effect on Second Dwelling Units
<p>A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019)</p>	<p>The Provincial Government amended the Growth Plan for the Greater Golden Horseshoe (Places to Grow) on May 16, 2019. The Growth Plan contains policies requiring a compact development pattern and provide for greater housing options, amongst others. Additional residential units are considered as one form of housing that contributes to a mix of housing options. More specifically:</p> <ul style="list-style-type: none"> • Achieve complete communities by providing a diverse range and mix of housing options including second units and affordable housing to accommodate people at all stages of life; and, • Higher density housing options such as second units to accommodate a range of household sizes in locations that can provide access to transit and other amenities. • Within major transit station areas, development will be supported by planning for a diverse mix of uses, including second units to support existing and planned transit service levels.



Provincial Plans and Policies	Effect on Second Dwelling Units
<p>Provincial Policy Statement (2020)</p>	<p>The Province released the Provincial Policy Statement (PPS) (2020) on February 28, 2020 with an in-effect date of May 1, 2020.</p> <p>The PPS (2020) identifies “additional residential units” as part of creating complete communities and being inclusive with respect to housing options.</p> <p>In Policy 1.1.1. states that healthy, liveable and safe communities are sustained by efficient development and land use patterns, accommodating a range and mix of, amongst others, residential uses such as additional residential units, and promoting cost-effective development patterns and standards to minimize land consumption and servicing costs.</p> <p>Additional residential units are also key to contributing a mix of housing types when considering social and economic well-being under Policy 1.4 – Housing.</p> <p>Additional residential units are included in the definition of “Residential Intensification” in Policy 6.0 - Definitions.</p>

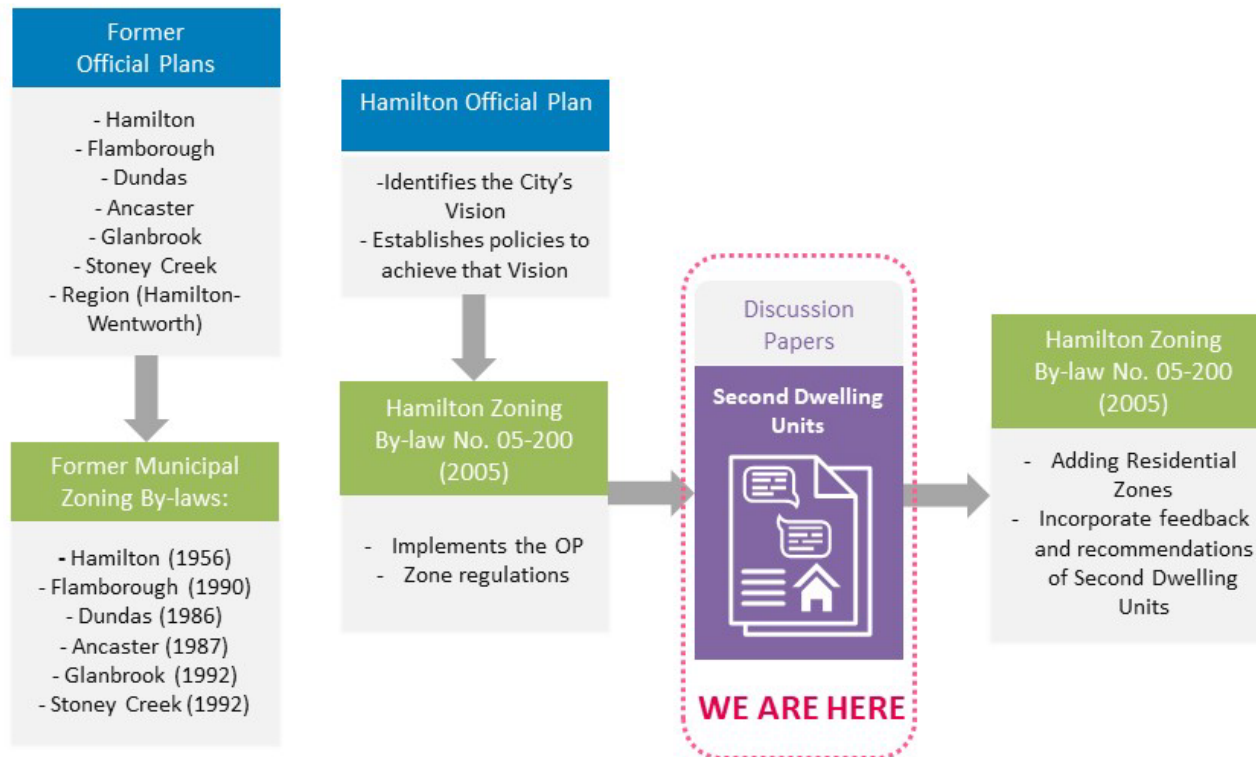


Provincial Plans and Policies	Effect on Second Dwelling Units
<p>More Homes, More Choice: Ontario's Housing Supply Action Plan (2019)</p>	<p>Released on May 2, 2019, the Five-Point Housing Supply Action Plan includes the following relevant points:</p> <p><u>Point 3</u> – Mix: Need for a variety of housing types to be built including townhouses, mid-rise rental apartments, and Second Units.</p> <p><u>Point 4</u> – Rent: A plan to make it easier to build rental housing. Rental housing may also include Second Units as this form of housing is subordinate to the principal dwelling and can only be rented, not sold.</p> <p><u>Point 5</u> – Innovation: New housing designs and materials encouraging innovative and creative forms of housing such as Second Units. Second Units through its creative designs can be accommodated within existing dwelling units or as a stand-alone building accessory to the principal dwelling.</p>



5.0 Municipal Planning Requirements

There has been an evolution in the planning framework in Hamilton over time with a progression from when each former municipality had their own Zoning By-law to today combining all six Zoning By-laws of the former municipalities into one city-wide document.



5.1 Urban Hamilton Official Plan (UHOP)

The UHOP contains policies that address housing options for a variety of household types, including SDUs.

Providing a range of housing types, forms, and densities, to meet social, health, and wellbeing requirements for current and future residents, and to provide housing within complete communities is a goal set out in the UHOP (Policy B.3.2.1). SDUs provide for different housing types and forms within communities which, in turn, contribute to the overall social wellbeing of residents, diversity of housing forms, and complete communities.

The UHOP identifies Residential Intensification as a key component of growth in the City, including SDUs. The need to consider the existing neighbourhood's overall built form, character, scale, and massing to ensure any intensification is sympathetic to its surrounding is a requirement of the UHOP (Policy B.2.4).

Policies C.3.2.2 and E.3.0 sets out the policy permissions for SDUs. SDUs are permitted in Single Detached and Semi-Detached Dwellings. An amendment to the policy is required to permit SDUs in Street Townhouses.

What is an Official Plan?

An Official Plan (OP) is a policy document that guides short, medium, and long-term goals of the City. It applies to all lands within the City and provides direction such as how a property can be used, whether it will have certain infrastructure such as water and sewer, and any policies specific to the land use.

An Official Plan must conform, or be consistent with, Provincial Legislation and Policies such as those identified in Section 3 – Provincial Requirements.

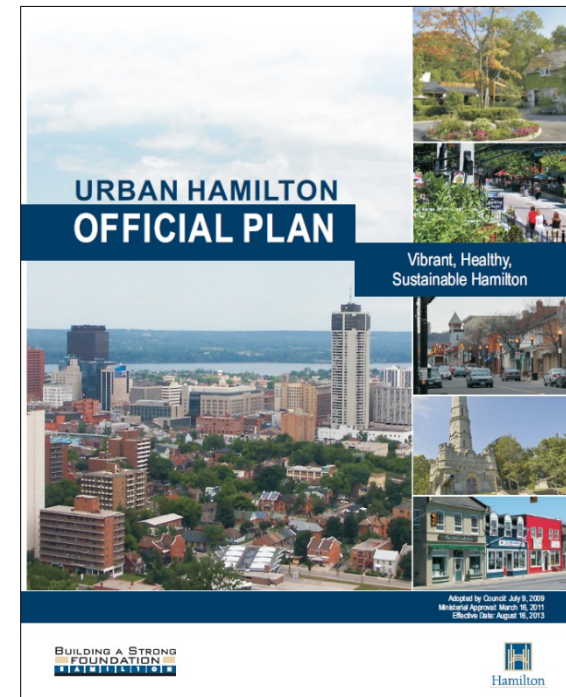
Hamilton is governed by two Official Plans: the Rural Hamilton Official Plan (approved in 2012) and the Urban Hamilton Official Plan (approved in 2013).

Design and compatibility policies for SDUs in the UHOP direct that any potential impacts of residential intensification be minimized through building design in keeping with the scale, massing, and building height of the surrounding neighbourhood.

In addition to the parent Official Plan policies, there are also Secondary Plans which affect specific communities. Volume 2 of the UHOP contains Secondary Plans which implement not only the parent Official Plan (found in Volume 1), but also Secondary Plan policies, land use designations, and overall planning approaches that fit with local contexts. Because SDUs are permitted through Policies C.3.2.2d) and E.3.2.3 in Volume 1 of the UHOP, there are few policies in the Secondary Plans related to SDUs.

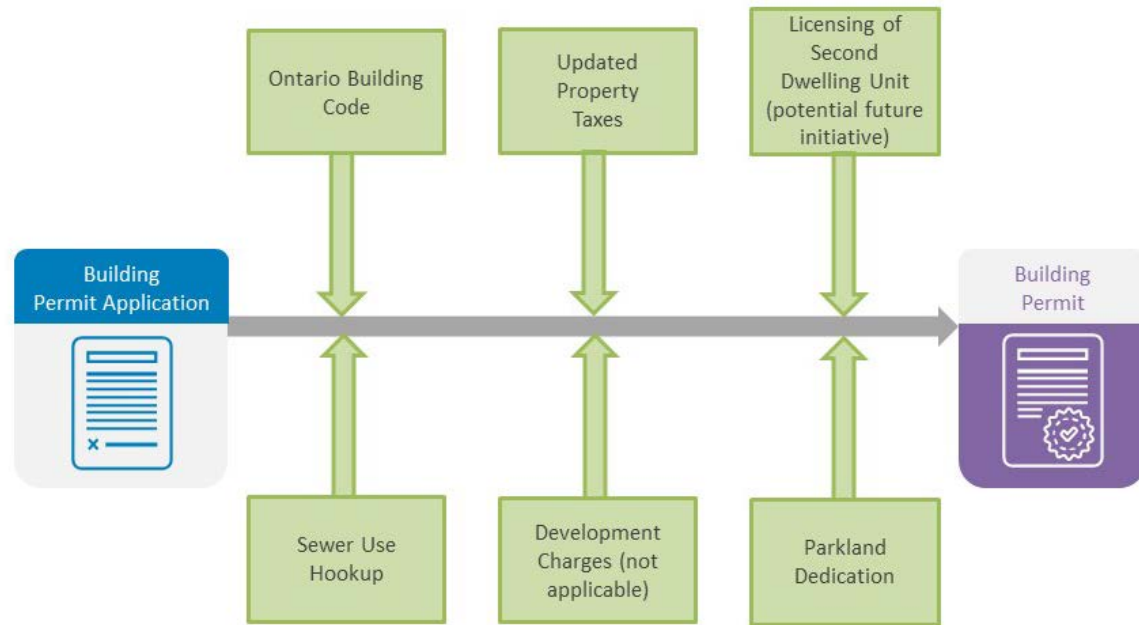
5.2 Existing Permissions in the former Municipal Zoning By-laws

Currently, portions of the Urban Area of Hamilton allow for SDUs within the interior of the existing dwelling unit only, with the exception of the Laneway House pilot project which permits detached SDUs in conjunction with Single Detached Dwellings that abut a laneway. However, as previously noted, these permissions are inconsistent across the former municipalities.



6.0 Other Municipal Requirements

The City of Hamilton has undertaken several actions to reduce the overall municipal costs related to SDUs such as reducing Parkland Dedication fees. Changes to the Ontario Building Code have provided more certainty and reduced overall construction costs. The diagram identifies the various municipal requirements to establish a SDU.



6.1 Ontario Building Code

Construction of a new SDU is subject to Part 9: Residential of the *Ontario Building Code (OBC)*, whereas converting an existing accessory building to residential use is subject to Part 11: Renovations. A Building Permit is required to ensure compliance with regulations of the Code. Changes to the OBC in May 2017 under O.Reg. 139/17 increased flexibility by allowing different construction methods in new construction. Further, changes included the broadened definition of “House” which includes a single detached, semi-detached unit, or row house (street townhouse) unit having not more than two dwelling units. Therefore, a house can contain the principal dwelling unit alone, or a principal dwelling unit and a secondary suite. However, a house cannot include three dwelling units.

Between 2016 and 2018, a total of 282 Building Permits were issued in Hamilton to convert Single Detached dwellings to SDUs. All but one of the Building Permits were issued in the former City of Hamilton and one was issued in Dundas. The data showed the average size of the SDU was 75.6 square metres. There were no new SDUs constructed in the other former municipalities.

6.2 Parkland Dedication

Parkland dedication refers to the amount of land, or cash in lieu of land, that new development must provide to the City for the creation of new parkland. The construction of an SDU is considered as development and must therefore contribute to parkland dedication.

The current Parkland Dedication By-law was approved on May 23, 2018. It seeks to encourage the construction of SDUs by setting a reduced cash-in-lieu rate of approximately \$870 where one additional dwelling unit is added to a Single Detached Dwelling that existed prior to March 8, 2017, subject to annual indexing. Prior to the amendment in 2018, the homeowner was required to pay a cash-in-lieu fee for the SDU based on the valuation of the property after the addition, which was substantially more than the current \$870 rate.



6.3 Development Charges

Development charges are required through the Province's *Development Charges Act* and the Municipality's adopted development charges by-law. These charges are generally collected at the time a Building Permit is issued, and are used to partially cover the cost of new infrastructure required to provide municipal services to new or existing communities such as roads, transit, water and sewer infrastructure, and community centres.

The Hamilton Development Charges By-law currently mirrors the statutory residential intensification exemption required in the Development Charges Act and provides an additional exemption for laneway houses and garden suites.

In summary, Hamilton provides development charges exemptions for up to two additional dwelling units within an existing single detached dwelling or for one additional dwelling unit in any semi-detached, row dwellin or apartment building. The exemption is limited based on Gross Floor Area such that such that development charges apply if the Gross Floor Area of the one or two additional units exceeds the Gross Floor Area of the existing dwelling unit. Laneway houses and garden suites also receive an exemption from development charges without any Gross Floor Area limitations.



Legislation is pending which will expand the statutory residential intensification exemption to include not only dwellings within existing residential building but also to include structures ancillary to existing single detached dwellings, semi-detached dwellings or row-dwellings or within new single detached dwellings, semi-detached dwelling or row-dwellings. [consider cross reference]

6.4 Water and Wastewater Servicing of Second Dwelling Units

SDUs are self-contained dwelling units and water and sanitary services must be provided directly into the unit. SDUs located interior to the principal dwelling can utilize existing water and wastewater lines and detached SDUs (new or converted) have two options. Services can either be hooked up through water and wastewater lines that already exists on the lot, or a dedicated water and wastewater line can be installed from the street. Under the City's existing Sewer and Drainage By-law 06-026, services can be hooked up from the private portion of the Sanitary Sewer lateral pipes and water pipes to the SDUs in the side or rear yard, and it would be the responsibility of the homeowner to maintain and repair the pipes. A sewer permit must be obtained prior to any alterations to existing services or construction of new services.

6.5 Emergency Services Access to Second Dwelling Units

Regulations in the OBC and Fire Code ensure emergency personnel have proper access to buildings. Firstly, the maximum distance from the street to the entrance of the door of a habitable building is 45.0 metres under both Codes, which is the length of a fire hose that is connected to a pumper truck. The linear distance from the street may be less if the hose is required to bend to reach the SDUs in those situations where the SDU is located in the rear of the lot, the side or rear of the principal dwelling. To avoid any confusion between zoning, OBC and Fire Code regulations, it is recommended that the zoning standards for SDUs establish a maximum linear distance of 40 metres from the front or flankage lot line to allow emergency personnel to safely access the dwelling unit.

Similarly, a required 1.0 metre minimum clearance and unobstructed path along one yard from the street to the front of the SDU with a minimum clear overhead of 2.6 metres ensures safe access for personnel to reach the SDU. Emergency vehicles do not rely on laneways to access properties as they are generally undersized and access is not guaranteed.

6.6 Hamilton's Housing & Homelessness Action Plan

Released in December 2013 by the Housing Services Division of the Community and Emergency Services Department, the purpose of this action plan is to provide a 10-year action plan to guide decision making in addressing affordable housing and homelessness in the City. The recommendations are formed on the basis that housing is a human need and good housing promotes better health and social outcomes. There is also an economic aspect to providing good housing such as the reallocation of government funding to other priorities in the City and further encourages private investment in creating new housing stock.

There is a total of 54 strategies to be completed over the ten-year period, many of which are related to financial assistance and funding programs. However, there are three strategies that directly tie to increasing the supply of SDUs by permitting them through zoning:

Strategy	Description
1.6	As part of the Comprehensive Zoning By-law, permit as-of-right higher density multi-residential development, converting non-residential space to residential.
2.1(a)	Encourage mixed housing and mixed income development by increasing opportunities for rental, social, and affordable housing.
2.1(c)	Encourage mixed housing and mixed income development by exploring opportunities to redevelop to include a mix of new housing options.

Strategies 2.1(a) and 2.1(c) may be more generally described and a variety of tools can be utilized. For example, through policies in the Official Plan and Secondary Plans to increase housing diversity, which includes permitting a variety and mix of housing types within a community to allow for opportunities for low income households to find affordable housing in all parts of the City. In addition to the above strategies, the report also mentions the comprehensive zoning by-law project to implement the policies of the Urban Hamilton Official Plan that will facilitate affordable housing opportunities, including SDUs. A Five-Year update to the Action Plan was brought forward to the Emergency and Community Services Committee on August 17, 2020.

6.7 “Keys to the Home”: A Housing Strategy for Hamilton

Released in 2004 by the Public Health and Community Services Department, “Keys to the Home” noted that there are health and social costs associated with the lack of affordable housing and appropriate housing. An increase in housing affordability leads to improvement in personal health and social wellbeing, and also serves as an economic catalyst that may lead to increased jobs and incomes for residents. Of the 22 recommendations to “Keys to the Home”, two specifically relate to SDUs.

Recommendation	Description
5	That the new Official Plan for the City of Hamilton include policy direction in a number of key housing areas including condominium conversions, maintenance of Hamilton’s dwelling stock, the affordable housing continuum, housing supply targets, residential intensification, accessory apartments and lowering the cost of new housing construction. (completed)
6	That as part of the development and harmonization of the former area municipal zoning by-laws into one Hamilton zoning by-law, accessory apartments as-of-right throughout the City with appropriate site-specific requirements be considered as it represents a cost-effective way of providing new lower cost rental housing opportunities.

The UHOP implements Recommendation 5 through policies with respect to:

- Housing policies which includes increasing Hamilton’s stock of affordable housing and maintaining a balance of rental and ownership housing stock including general housing targets for both tenure;
- Residential intensification in the Downtown and nodes and corridors; and,
- Permitting SDUs in the Neighbourhoods designation.

This paper will feed into a new set of zone regulations to permit SDUs and implements Recommendation 6.

6.8 Conclusion

Site specific constraints such as grading and drainage, parking, lot configuration, natural heritage features and buffer requirements, and emergency access requirements mean that not every residential lot will be able to accommodate an SDU.

Through Bill 108, all municipalities in Ontario, including Hamilton, are required to permit up to two SDUs on a lot containing a Single Detached, Semi-Detached, or Street Townhouse Dwellings. Given the legislative requirements, the conversation in this Discussion Paper is not a matter of “if” SDUs should be permitted in Hamilton, but rather what regulations should be incorporated to ensure appropriate integration within existing residential communities.

7.0 Suggested Approaches to Defining Second Dwelling Units in Hamilton Zoning By-law No. 05-200

The suggested approach is to introduce a new definition of Second Dwelling Unit to provide clarity on what an SDU is. The proposed definition for an SDU is:

Second Dwelling Unit: Shall mean a separate and self-contained Dwelling Unit that is accessory to and located on the same lot as the principal dwelling and can be physically located within the principal dwelling, or located within an accessory building to the principal dwelling.

All of the definitions in a zoning by-law need to be read collectively as the various parts of a zoning by-law are intended to work together. As such, there are other options such as amending the definitions of single-detached, semi-detached, and street townhouse dwellings in Hamilton By-law No. 05-200 to include up to two SDUs. Amending existing definitions of dwellings to where an SDU could be permitted can be an innovative option and reduce the number of defined terms in the Zoning By-law.



8.0 Potential Regulations for Second Dwelling Units Interior to the Principal Dwelling

Interior renovations and SDUs located within the main dwelling unit, or as an addition to the main dwelling unit, is more common than detached SDUs as construction can be cheaper, especially where no additions are involved. They could include an underused or unfinished portion of the main dwelling such as a basement or attic space.

Additions must conform to the zoning regulations for building height, setbacks, and any other regulations. However, in developing zoning regulations for SDUs, there are technical requirements for SDUs internal to the principal dwelling that are identified in this section.

8.1 Potential Technical Requirements for interior Second Dwelling Units

8.1.1 Minimum and Maximum Size Requirements of a Second Dwelling Unit

Current regulations in Hamilton require both the principal dwelling and accessory dwelling unit to each exceed 65 square metres which means a dwelling has to be at least 130 square metres (1,400 square feet) to be eligible to add a SDU . The intent of this regulation developed in the 1980's was to ensure the units met all OBC requirements and to discourage the over concentration of SDUs in any one geographic area of the City.

This section provides options for either bringing forward the minimum size requirement for an SDU, or abolishing the regulation altogether.

Do you think...

There should be a Minimum Size Restriction on an SDU?

If Yes, what should the minimum be?



50 square metres



65 square metres (same as current regulation)



___ Square metres (you determine)

Option 1a: Minimum Gross Floor Area of a Second Dwelling Unit (No Maximum Size Requirement)

This first option introduces a minimum Gross Floor Area (GFA) for the SDU. Currently, Hamilton Zoning By-law No. 6593 has a minimum GFA of 65 square metres for each of the SDU and the principal dwelling.

Advantages	Disadvantages
As it is a regulation carried over from a former Municipal Zoning By-law, the interpretation is consistent and familiar.	Variances would be required should the homeowner wish to establish a smaller SDU.
Minimum size requirements ensure the tenant is not living in an undersized unit.	Establishing a minimum floor area may be arbitrary. Why 65 square metres? Dwelling units can be designed to be smaller and still be livable while still meeting minimum OBC. No similar regulations exists for apartment units in the Zoning By-law.

Option 1b: Maximum Gross Floor Area of Second Dwelling Unit based on Size (No Minimum)

This second option considers a maximum size for the SDU based on a maximum floor area to ensure the additional unit is “accessory” to the main house.

Advantages	Disadvantages
Ensure the SDU is not oversized.	Establishing a maximum floor area may be arbitrary. Reduces flexibility and creativity of the homeowner to establish a larger SDU. May require the homeowner to modify the regulation through a Minor Variance application. This further adds time and cost to the project.

Option 1c: Gross Floor Area of Second Dwelling Unit based on a Percentage of the Size of the Main Dwelling (No Minimum)

This third option adds a regulation that includes a maximum size for the SDU based on a percentage with an overall maximum cap on size (in square metres). The stricter of the two regulations apply. For example, the Zoning By-law could establish a maximum percentage of 40 percent, the maximum size of a SDU would be 400 square feet (37 square metres) for a 1,000 square foot (93 square metres) main dwelling.

Do you think...

There should be a Maximum Size for SDUs?



No restriction as long as other requirements are met (i.e lot coverage, distance between dwellings)



50 square metres



Another size?

Advantages	Disadvantages
Ensures the SDU is not oversized especially on narrow and/or shallow lots.	<p>Determining the maximum percentage or maximum size can be arbitrary.</p> <p>Reduces flexibility and creativity of the homeowner to establish a larger SDU. May require the homeowner to modify the regulation through a Minor Variance application, adding time and cost delays for a homeowner.</p>

Option 1d: A Combination of Options 1a, 1b, and 1c

This fourth option considers a suite of regulations from Options 1a, 1b, and 1c, which is a combination of minimum or maximum GFA of an SDU, or both. With respect to maximum size of a SDU by percentage and floor area, the stricter of the two would apply. For example, if the main dwelling is 1,000 square feet (93 square metres), the maximum size of the SDU is 400 square feet (37 square metres) based on the maximum percentage of 40 percent. But because the stricter of the two applies, the SDU can only be 30 square metres.

Option 1e: No Restrictions on the Size of the Second Dwelling Unit (No Minimum or Maximum)

This fifth option addresses the accessory nature of the second dwelling unit. Although there are no restrictions compared to the first two options, the SDU must still function as an accessory use to the principal use (i.e. Single Dwelling Unit). The definition of “Accessory” in Hamilton Zoning By-Law No. 05-200 is:

“Shall mean, when used to describe a use of land, building or structure, shall mean a use which is commonly incidental, subordinate and exclusively devoted to the main use or main building situated on the same lot.”

Advantages	Disadvantages
Not subject to an arbitrary maximum percentage and calculating how big the SDU is simple.	The maximum size (i.e. percentage or floor area) is silent in the Zoning By-law. “Accessory” determined based on policy interpretation of the Zoning By-law.
Eliminate need by the homeowner to seek Minor Variance to increase the size of the SDU.	

Suggested Approach: Option 1e

The suggested approach is to not include a minimum or maximum size restriction of the SDU. This approach is currently taken under Section 19: Residential Conversion in Hamilton Zoning By-law No. 6593. Based on a mathematical calculation and interpretation of “accessory,” the floor area of the SDU must be less than 50% of the floor area of the principal dwelling unit. For example, for a 100 square metres principal dwelling, the SDU must be less than 50 square metres (i.e. 49.9 square metres). This approach leaves the size and configuration of the SDU up to the homeowner.

8.2 Potential Design Requirements for interior Second Dwelling Units

8.2.1 Location of Entrance to Second Dwelling Unit

Entrances to SDUs can be established in a variety of ways. The entrance can be shared with the principal entrance internally in a vestibule or lobby. Alternatively, the entrance can be separated between dwellings with the doors facing the street, or through the side or rear of the building. This section includes options to address the location of entrances to the SDU and is for discussion purposes.

Option 2a: Permit Second Dwelling Unit Entrances from the Side or Rear of the Principal Building only

This first option directs the location of the main entrance of the SDU to the side or rear of the main dwelling only, or as an internal common hallway with a common main entrance with the principal dwelling. Municipalities such as Toronto, London and Mississauga prohibit Second Dwelling Unit Entrance from a yard abutting a street (the front or flankage yard).

Advantages	Disadvantages
Maintains the general appearance and character of the street by prohibiting “two front doors.”	Depending on the floor plan of the main dwelling, retrofitting the interior so there is a rear or side entrance for the Second Dwelling Unit may be difficult and/or cost prohibitive.

What do you think?

Should a dwelling unit be able to have two doors facing the street (one for the Second Dwelling Unit, one for the main dwelling)?



Let them have two doors.



Prefer one building, one door.

Why or why not?

Option 2b: For a Corner Lot, permit one Second Dwelling Unit Entrance facing one street and a second entrance facing the other street.

This second option would allow one entrance on each building façade facing the street but only for corner lots. From the street, only one door would be present.

Advantages	Disadvantages
Provides another option for the homeowner to place the entrance in a convenient and cost-effective location. This regulation would not prevent the homeowner from building an additional entrance in the rear or side yard.	Only applicable in a limited number of circumstances (i.e. only applies to corner lots and not interior lots).
A private entrance for the tenant of the SDU provides additional privacy and safety for both dwelling and principal dwelling as it faces the street.	
This option permits one entrance per building façade facing the street and still maintain the general appearance of the street.	

Option 2c: Do not regulate the presence of a Second Dwelling Unit Entrance facing the Street

The third option allows two external entrances on the façade to face the street. The property owner has the option of installing the entrance based on their preference.

Advantages	Disadvantages
Fewer regulations and greater flexibility for the property owner.	For semi-detached, street townhouse dwellings, and single-detached dwellings on narrow lots, permitting one additional entrance facing the street could be out of the character with the rest of the street.
Provides street-facing entrances for the tenants.	

Option 2d: Permit a second entrance on the façade facing the street in an interior lot in Lower Hamilton as-of-right, and only permit through minor variance elsewhere in the City

The fourth option would allow for certain areas of the City to have second entrances facing the street. Due to Hamilton’s diverse housing and neighbourhood types, it may not be possible to have a “one size fits all” solution to second entrances. For example, older communities, such as around Downtown Hamilton, have a more varied range of dwelling types from single-detached, duplex, triplex, and rowhouse dwellings.

However, in other communities such as parts of Hamilton Mountain, Ancaster, and Stoney Creek, there is a more uniform housing type based on the period of construction and the number of entrances facing the street is limited to a single door. In this location, requiring a minor variance provides an opportunity to ensure compatibility on a case by case basis.



Advantages	Disadvantages
<p>The option to add an additional entrance on the façade facing the street gives additional flexibility for homeowners residing in certain areas of the City where there are more diverse housing types. Requiring a minor variance provides an opportunity to ensure compatibility on a case by case basis.</p>	<p>It would create added cost outside of Lower Hamilton to obtain a minor variance and may reduce the opportunity for SDU’s outside of Lower Hamilton where side or rear entrances are not feasible.</p>

Suggested Approach: Options 2b and 2d

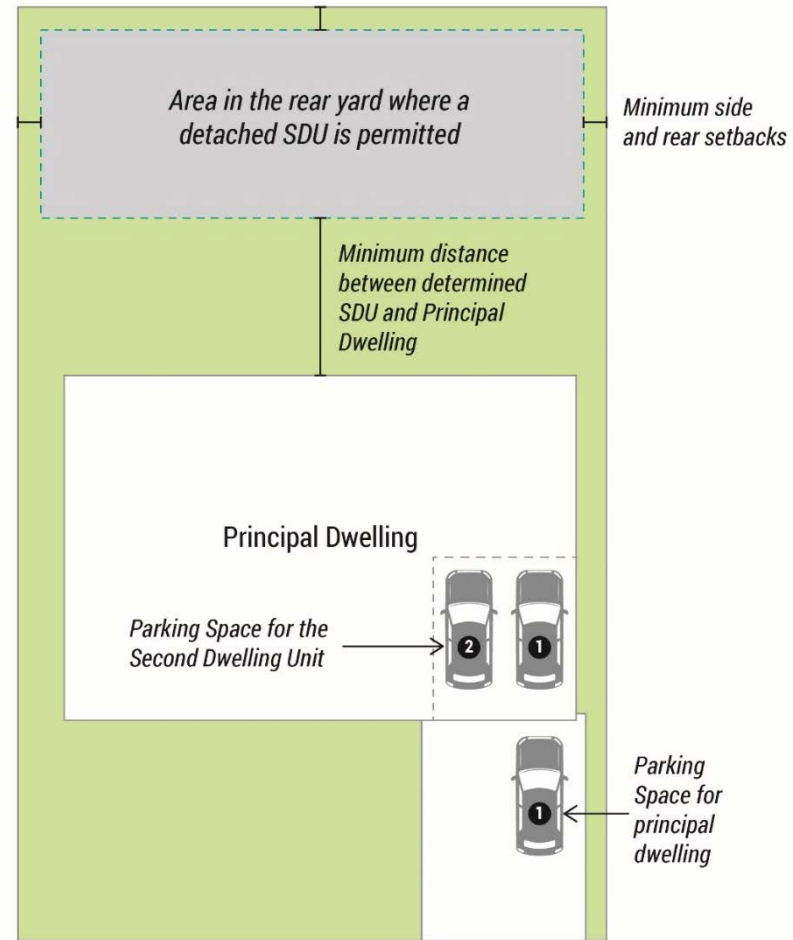
The suggested approaches are: to permit one entrance on each building façade facing a street for corner lots citywide; to permit two entrances for interior lots in Lower Hamilton; and, to permit one additional entrance on the rear or side building facades in the rest of the City. As there are diverse housing types in Lower Hamilton, buildings may have more than one entrance on the façade facing the street. However, elsewhere in the City where there is a more uniform housing type on the same street, the number of entrances facing the street is limited to one entrance.

9.0 Potential Regulations for New Detached Second Dwelling Units

In addition to SDUs located internal to the principal dwelling, newly constructed detached SDUs on lands containing a Single Detached, Semi-Detached, and Street Townhouse dwelling will also be permitted. These SDUs would only be permitted in the rear yard, and side yard if there is sufficient space. A detached SDU would not be permitted in the front yard as any accessory building and structure is not permitted in the front of the dwelling.

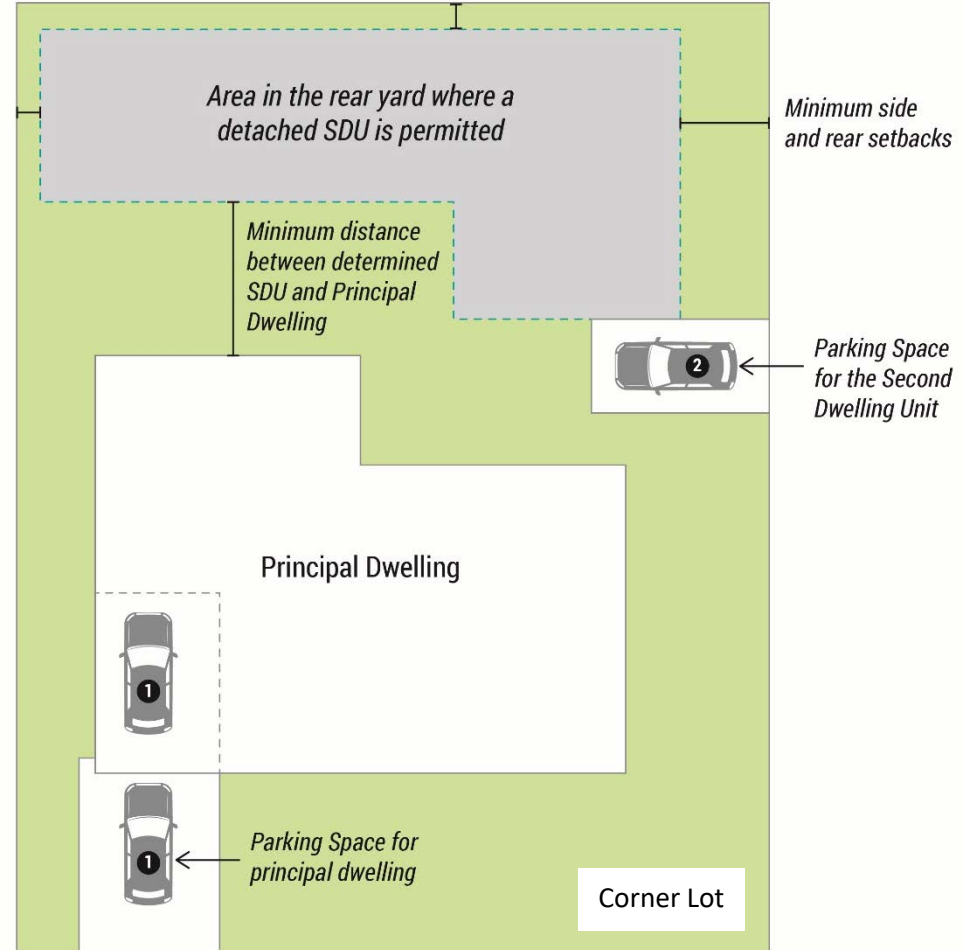
Not all lots can accommodate a detached SDU due to lot configuration, grading, drainage, and environmental constraints. Further, any easements in the side and rear yard may also hinder any detached dwellings from being built. Finally, there are regulations that are proposed to ensure the detached SDU is compatible with abutting neighbours and impacts such as noise, privacy, shadow, and overlook are minimized.

The following subsections propose regulations to address compatibility and impacts related to the construction of a detached SDU in an urban context. Accompanying the regulations are options for consideration and pros and cons.



A property owner must also consider the following mandatory “fire” regulations in the OBC and Fire Code to ensure that dwelling units of any type can be accessed in the event of a fire or paramedic call. Including the “fire” regulations into the Zoning By-law increases certainty and reduces surprises that these regulations exist. The mandatory regulations include:

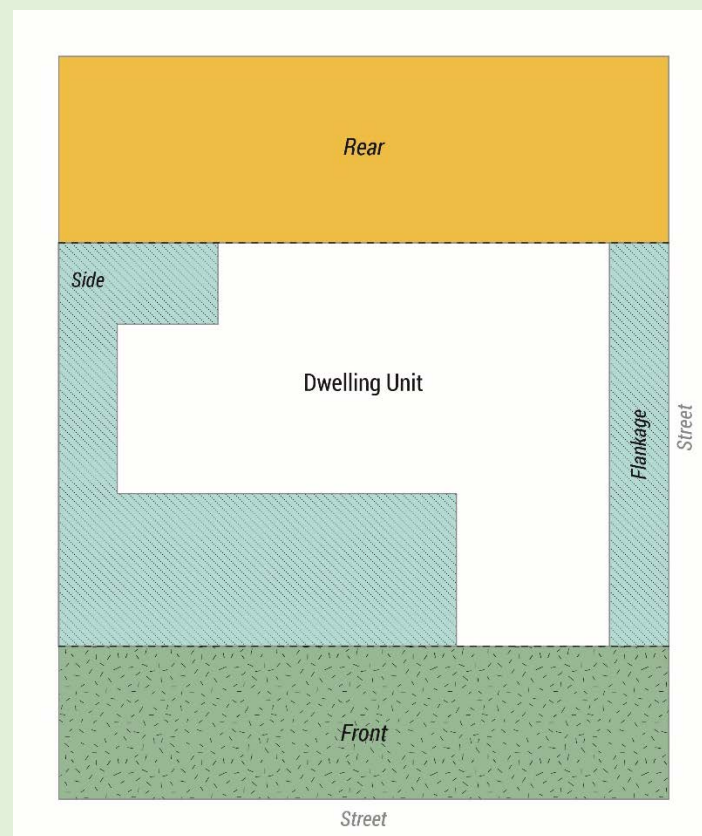
- A minimum 1.0 metre clear and unobstructed path with a clear overhead of 2.6 metres from the street to the entrance of the detached SDU;
- A maximum 40.0 metres linear distance from the street to the entrance to the SDU; and,
- Minimum distance requirement of 4.0 metres between the detached SDU and the main dwelling in the interior side yard for fire separation, access, landscaping, privacy, and grading and drainage.



9.1 Potential Technical Requirements for New Detached Second Dwelling Units

Planning 101: What is a “Yard”?

- A “yard” is the space between a building and the property line. There are four types of yard:
 - Front Yard: The space between the front lot line and building.
 - Side Yard: The space between the side lot line and nearest point of the building
 - Rear Yard: The space between the rear lot line and the building.
 - Flankage (or Exterior Side) Yard: The space between the front yard and the rear yard along the lot line that abuts the street (that is not the front lot line).
- A corner lot will have a flankage (or exterior side yard) on one side of the lot because the lot abuts streets on two sides of the property.



9.1.1 Minimum Setback from Front Lot Line for a Detached Second Dwelling Unit

If a detached SDU is permitted in the interior side yard, one concern is how close the detached SDU is to the front face of the principal dwelling. Without regulations to restrict its placement, detached SDUs can conceivably be built very close to the street. The main concern is the potential change in general appearance of the dwelling by having an additional accessory building visible from the street. The following options address this issue.

Option 1a: No regulation to address minimum distance requirement of Detached Second Dwelling Units from the Street

This first option is to not regulate how close the detached SDU should be from the street. As the use is permitted within the full extent of the interior side yard, the dwelling unit can be located very close to the street, effectively having the same distance from the street as the principal dwelling. From the street, the detached SDU may resemble a separate principal dwelling unit on its own residential lot, thus disrupting the appearance from the street.

Advantages	Disadvantages
Gives the discretion to the homeowner to determine where to site the detached SDU.	If the detached SDU is constructed close to the street, it may read as a separate principal dwelling and alter the general appearance of the neighbourhood from the street.

Option 1b: Establish a Universal Minimum Setback from the Front Lot Line

The second option establishes a universal minimum front yard setback that is greater than what is required for the principal dwelling, would ensure the detached SDU is built further to the rear of the property and be less visible from the street. However, this option may not consider houses that are built far back from the front lot line. Under this scenario, the detached SDU may be built closer to the street than the principal building.

Advantages	Disadvantages
Addresses the detached SDU having an impact on the general appearance from the street if the dwelling unit is built at the front lot line.	This option does not consider the scenario where the principal dwelling may be built far back from the minimum front yard setback (such as a “homestead” scenario where the house is built further back from the street). There may be a chance the detached SDU might be built closer to the front lot line than the principal dwelling, thus defeating the purpose of reducing altering the appearance from the street.

Option 1c: Establish a Maximum Projection into the Rear Portion of the Interior Side Yard and Establish a specific setback based on Front Yard of Principal Dwelling

The third option is to establish a maximum distance a detached SDU can project into the interior side yard. The projection would only be permitted from the rear end of the principal dwelling. The intent is to direct a SDU to the rear half of the principal dwelling and is set back far from the street. A maximum projection from the rear of the principal dwelling ensures the detached SDU cannot project into the side yard more than a predetermined amount such as half the depth of the principal dwelling. The intent is that no matter the building depth of the principal dwelling unit, the detached SDU would be only partially visible from the street.

Advantages	Disadvantages
This option considers scenarios where the principal dwelling may be built away from the minimum front yard setback (such as a “homestead” scenario where the house is built further back from the street).	Variances are required if the homeowner wishes to exceed the projection into the interior side yard.
Effective in locating the detached SDU regardless of the dimensions of the principal dwelling.	

Suggested Approach: Option 1c

The suggested approach is to establish a maximum projection into the rear portion of the interior side yard. The advantage of this approach is that the detached SDU construction is dependent on the location and building depth of the principal dwelling. The following draft regulation is proposed:

“A detached Second Dwelling Unit shall be permitted beyond the halfway point of the depth of the interior Side Yard as measured from the front and/or flankage lot line.”

9.1.2 Minimum Side and Rear Lot Line Setback Requirements

To address privacy and overlook, landscaping, proper maintenance and repairs to buildings, and for drainage and grading purposes, minimum setbacks from a rear and/or side lot line are required. Setback requirements from the side, rear, and flankage lot lines are considered in this subsection but not for front lot lines (lot lines in front of the street) as detached SDUs are not permitted in the front yard.

Option 2a: No Setback Requirement from the Side or Rear lot lines

This first option does not include minimum setback requirements from the side and rear property line for detached SDUs. In this option, the homeowner determines if a setback should be applied when proposing a new detached SDU.

Advantages	Disadvantages
Benefit narrow lots where it may be difficult to accommodate minimum setbacks for detached SDU.	Potential shadowing, privacy and overlook concerns with abutting property.
Property owners have more flexibility to build a SDU especially on undersized lots.	No ability for the property owner to maintain/repair building as the walls face the abutting properties, potentially resulting in neighbour disputes and conflicts.
	Grading and drainage will result in flow of water onto the abutting properties. Further, having a 0.0 m setback from the property line results in encroachment of gutters and eavestroughs onto the neighbouring property, further resulting in overflow of water onto abutting properties.

Option 2b: Establish a Minimum Side, Flankage, and Rear Yard Setback for the detached Second Dwelling Unit

This second option would require the following minimum setback requirements for a newly detached SDU:

Interior Side Yard setback: 1.0 metres

Rear Yard setback of 1.0 metres

Flankage Yard setback: Same as parent zone regulations

The above setback requirements provide adequate grading and drainage that are important where there are grade differences, presence of retaining walls, and where there is limited landscaping and more impervious surface. Further, maintenance and repairs can be done without having to encroach onto abutting properties.

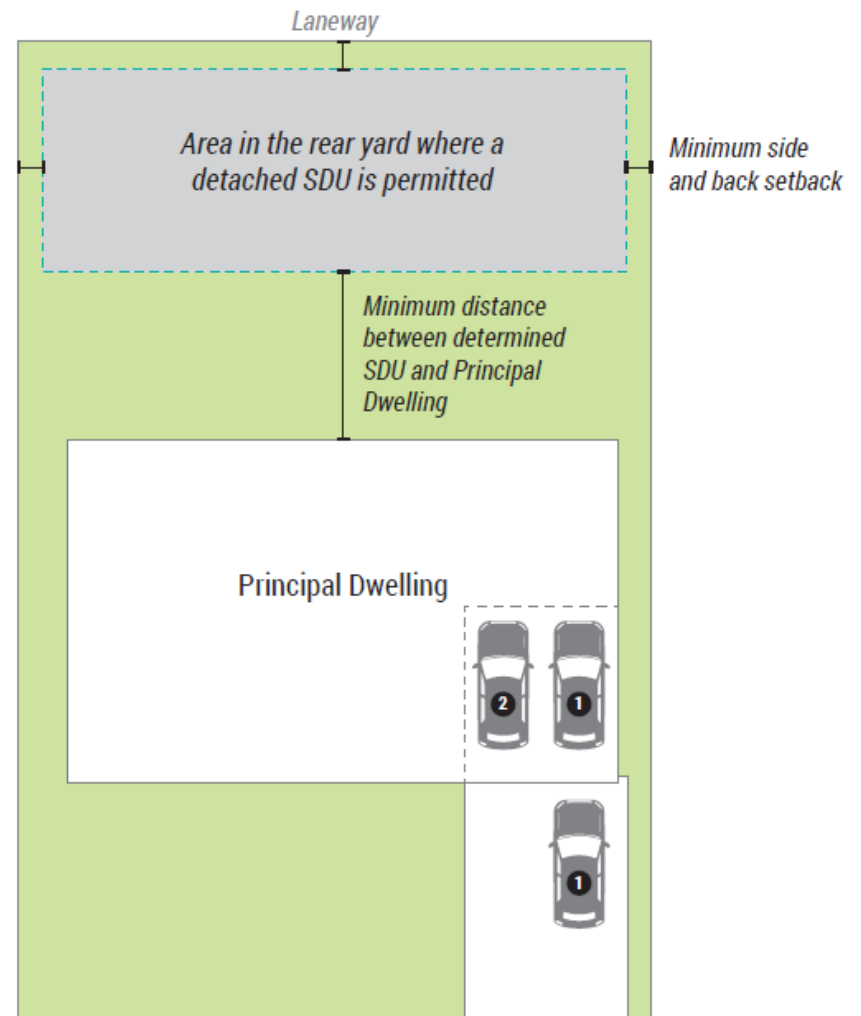
Future refinement will be required to ensure the regulations also reflect setback regulations for accessory buildings and structures in the Residential Zoning project.

The final determination of a required setback from a side or rear lot line must ensure that any overland drainage swales are not blocked.

Advantages	Disadvantages
A minimum setback requirement for the detached Second Dwelling Unit allows the property owner to maintain and repair the Second Dwelling Unit.	Reduces the buildable area in the rear yard, especially on a narrow and shallow lot.
A minimum setback requirement allows for on-site stormwater management such as drainage of stormwater.	

Suggested Approach: Option 2b

The suggested approach is to maintain an appropriate distance from abutting neighbours and allow maintenance of the building without encroaching onto abutting properties, the suggested approach is to establish a minimum side and rear yard setback of 1.0 metres subject to ensuring no interference with swales and draining.



9.1.3 Maximum Building Height

A maximum building height prevents a detached SDU from becoming too tall and impacting abutting neighbours. Under the “Laneway Housing” pilot project, a maximum building height of 6.0 metres was established. Six metres allows for either a one-storey detached SDU with a pitched roof design or a 1.5 storey dwelling with a shallow pitch or flat roof structure.

Option 3a: Establish a Maximum Building Height of 6.0 metres

This option would establish a maximum building height of 6.0 metres that is consistent with the Laneway Housing regulation. Building Height is generally defined in the various Zoning By-laws as the vertical distance between grade and the uppermost point of a building.

Advantages	Disadvantages
A defined maximum ensures clarity on how high a detached SDU can be built.	Maximum building height of 6.0 metres may not be sufficient to build a full two-storey level and still have some design elements.
Maximum Building Height of 6.0 metres considers the relation between the proposed detached SDU and abutting residential uses.	May impact how a detached SDU is designed if the rear yard has a sloped elevation.
Allows for additional floor space above the ground floor, reducing lot coverage.	

Option 3b: Establish the same height as the main building. No specific maximum height requirement for SDU

This option is to maintain the same maximum building height for the SDU as the main building.

Advantages	Disadvantages
Establishes a more flexible and minimal set of regulations. The design of the detached SDU is at the discretion of the homeowner and designer.	Potential impacts on abutting properties such as overlook, privacy, and loss of sunlight in the Rear Yard.

Suggested Approach: Option 3a

The suggested approach is to establish a maximum building height for a detached SDU of 6.0 metres, which permits a two-storey building with a flat roof, or a one-storey building with a sloped roof style.

9.1.4 Maximum Size of Detached Second Dwelling Unit

There are potential merits of establishing a maximum Gross Floor Area for a detached SDU to avoid an “oversized” accessory building in the backyard. Having an “oversized” detached SDU would impact abutting neighbours with respect to grading and drainage of stormwater, loss of landscaping, and potential privacy and overlook issues. However, having a maximum floor area cap reduces the ability for the homeowner to construct a larger Second Dwelling Unit. A maximum floor area may be perceived by property owners as an unnecessary regulatory burden as it limits the size of the SDU that they could construct, even if all building setbacks are met.

Option 4a: Establish a Maximum Size for a detached Second Dwelling Unit of 50 square metres

This first option would establish a maximum floor area for a detached SDU of 50 square metres, which is consistent with the existing zone regulation found in By-law 18-299 which established the Laneway Housing Pilot Project.

Advantages	Disadvantages
Having a maximum size for a detached SDU prevents the homeowner from building an oversized detached SDU.	Identifying a maximum building size may be arbitrary.
	Homeowners who need to build a larger dwelling unit or can accommodate a larger detached SDU would be required to seek Minor Variance approval.

Option 4b: No Maximum Size for a detached Second Dwelling Units. Rely on Maximum Lot Coverage to determine maximum building footprint.

This second option considers Lot Coverage to determine how big a detached SDU can be. As a result, the larger the lot, the larger the Second Dwelling Unit can be. For example, assuming a 25% lot coverage regulation, a detached Second Dwelling Unit on a 1,000 square metre lot would permit a footprint of 250 square metres for the SDU, if assuming no other accessory building (such as sheds, detached garage, gazebo) are present on the lot. Although larger lots can accommodate a larger SDU, there may be more mitigation options, such as greater setbacks from the property line, enhanced landscaping, and additional privacy barriers such as fencing to offset the impacts of essentially having two fully detached dwellings on a lot.

Advantages	Disadvantages
Homeowner has more flexibility to build a smaller or larger detached SDU based on other regulations such as Maximum Rear Yard Coverage to address overbuilding and maintain minimum open space in the backyard.	An oversized detached SDU may result in loss of landscaping and greenspace, and drainage and grading concerns. Neighbourhood conflicts may also result with the building of an excessively large building.

Suggested Approach: Option 4a

The suggested approach is to limit the size of a detached SDU to 50.0 square metres. There is no restriction on floor size per floor. For example, the homeowner may wish to construct a two-storey detached SDU with 40 square metres on the first floor and 10 square metres on the second floor. Establishing a maximum size of a detached SDU prevents homeowners from building an oversized dwelling which may impact abutting neighbours such as overbuilding in the rear yard.

Should there be...

A maximum unit size for a detached SDU? If Yes, what should the minimum be and why? (Circle One)



No restriction



50 square metres



You determine the size: _____

Tell Us What You Think!

If a detached SDU was allowed to be built almost parallel to the front façade of the main dwelling unit for a corner lot, interior lot, or both? (Circle One)



Yes, it is fine. I don't feel it is a concern.



A concern because the general appearance from the street will altered even with a smaller looking building.

What other ways can a detached SDU be screened from the street?

9.1.5 Total Lot Coverage of detached Second Dwelling Unit

One of the potential concerns with establishing a detached SDU (newly constructed or converted) is the amount of land that the building takes up. If the detached SDU takes up a large percentage of the lot, there may be insufficient space for landscaping, backyard space, and impact on grading and drainage. The issue of overbuilding is partially addressed by applying suggested approaches such as minimum distance between the detached SDU and the rear face of the principal dwelling in the rear yard (see Subsection 9.2.6) and side yard (see Subsection 9.1.3). A maximum floor area of a detached SDU of 50 square metres (see Subsection 9.1.4) also minimizes potential for overbuilding in the back yard. However, maximum lot coverage is another approach to ensure overbuilding does not occur.

Whereas floor area regulates the total gross floor area (which may be on 1 or 2 storeys), lot coverage focuses on the size of the building’s “footprint.”

The following options consider maximum lot coverage, but any regulations proposed will work in concert with maximum lot regulations of accessory buildings and structures as part of the Residential Zone project.

Option 5a: Do not establish a Maximum Lot Coverage for a Detached Second Dwelling Unit

This first option suggests no maximum lot coverage should be applied as there are other mechanisms to ensure overbuilding does not occur. For example, the minimum 7.5 metres distance required between the detached SDU located directly behind the rear wall of the principal dwelling, as described in Option 6b, ensures there is sufficient backyard space, landscaping, privacy between dwelling units, and grading and drainage. Ensuring a distance separation also ensures minimal lot coverage and allows space for accessory buildings and structures.

Advantages	Disadvantages
It provides for greater flexibility; there are other approaches that address the issue of overbuilding. Adding another regulation may be unnecessary.	This regulation also prevents overbuilding on a lot and would provide for usable backyard space, grading, drainage, and landscaping opportunities, in the event there is no distance separation between the SDU and principle dwelling (see Option 6b).

Option 5b: Establish a Maximum Lot Coverage that only applies to a Detached Second Dwelling Unit

This second option considers a combined maximum lot coverage for detached SDUs and accessory buildings and structures, calculated using the entire lot which includes the principal dwelling unit. Municipalities with a similar regulation includes Ottawa, where a combined lot coverage of 50% for the detached SDU and all accessory buildings and structures is applied. The lot coverage calculation in Ottawa applies to the side and rear yard only, and does not include the principal dwelling.

Determining the final percentage of a combined lot coverage considers two elements: the size of a detached SDU and the maximum lot coverage for all accessory buildings and structures on a residential lot. The following table shows the breakdown of the total combined lot coverage based on a maximum 7.5 percent lot coverage for accessory buildings and structures and a maximum size of a detached SDU. It is assumed in the table below, a one-storey 50 square metres detached SDU, which represents the largest possible building footprint.

Lot Width (m)	Lot Depth (m)	Lot Size (sq m)	Lot Coverage for a one-storey 50 sq m Second Dwelling Unit (%)	Maximum Lot Coverage for Accessory Buildings and Structures (%)	Total Lot Coverage (%)
9.0	30.0	270.0	18.5	7.5	26.0
10.0	30.0	300.0	16.7	7.5	24.2
11.0	30.0	330.0	15.1	7.5	22.6
12.0	30.0	360.0	13.9	7.5	21.4
15.0	30.0	450.0	11.1	7.5	18.6
18.0	30.0	540.0	9.2	7.5	16.7
20.0	30.0	600.0	8.3	7.5	15.8

In the former City of Hamilton, the lot coverage in a “C” District for a 12 m by 30 m lot (based on a minimum required yards) is 44%. The total impervious surface (principle building, SDU and 2 parking spaces) would equate to about 75%.

Based on the above table, the smaller the lot size, the greater the lot coverage. The results in the table are not a surprise given the maximum size of a detached SDU is based on a fixed floor area and is not dependant on the size of the lot the dwelling unit sits on.

Advantages	Disadvantages
Regulation assists in preventing the overbuilding on a lot, allowing for usable backyard space, grading and drainage, and landscaping opportunities in response to climate change/storm water management considerations. Easier to calculate if the entire lot is considered, including the principal dwelling.	Provides less flexibility for property owners and other proposed regulations, such as minimum distance requirements between dwelling units and maximum GFA of the detached SDU, already address usable backyard space, grading, drainage, and landscaping concerns.

[Suggested Approach: Option 5b](#)

The suggested approach is to introduce a maximum combined lot coverage for the detached SDU and all accessory buildings and structures. Based on the table found under Option 7b, the following regulation is suggested. Further refinement may be required to determine the most appropriate percentage.

- “i) The maximum combined lot coverage of a detached Second Dwelling Unit and all accessory buildings and structures on the entire lot shall not exceed 25% of the entire lot.”

[9.1.6 Minimum Distance between Principal Dwelling and Detached Second Dwelling Unit in the Rear Yard](#)

This subsection considers newly constructed SDUs that are located immediately behind the rear building face of the principal dwelling. The diagram below shows how this option applies.

A unique challenge with a detached SDU in the rear yard is the potential loss of backyard space for residents of the principal dwelling unit. This section considers options for newly constructed detached SDUs located behind the back side of the principal dwelling.

Option 6a: No restrictions on where the detached Second Dwelling Unit can be located behind the rear wall of the principle of the Principal Dwelling

This first option places no restriction on where the newly constructed detached SDU can be located behind the principal dwelling. However, minimum interior side yard and rear yard setback requirements continue to apply as well as the 3 metre separation between buildings for safety reasons (see Subsection 1.6). Although this may not be a concern for larger residential lots where there may be more opportunities for locating the detached SDU, this approach may benefit smaller lots.

Advantages	Disadvantages
Gives the homeowner discretion where to locate the detached SDU at the same time could use design options to maximize usable back yard space for the principal dwelling.	In some cases, and depending on the location of the SDU, the 3 metre distance between dwellings, may result in privacy, noise, and overlook issues for tenants. There may be insufficient useable backyard space if the detached SDU is inefficiently located.

Option 6b: Minimum distance between the detached Second Dwelling Unit and the Principal Dwelling in the Rear Yard

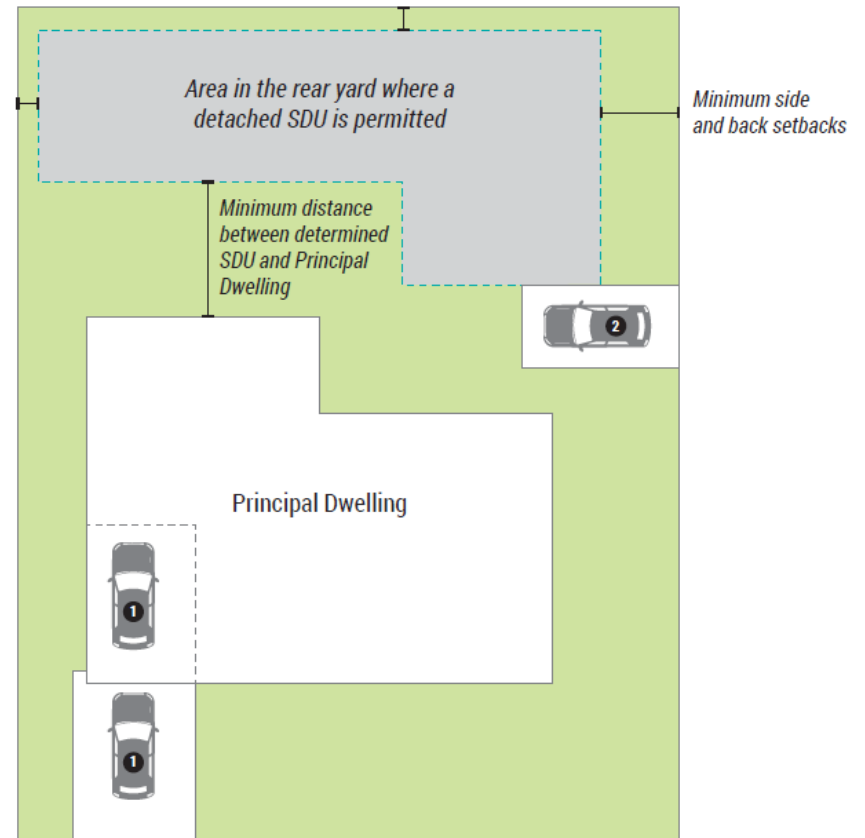
This second option considers a minimum distance of 7.5 metres when a detached SDU is directly behind the back wall of the principal dwelling. The purpose is to create a separation between two dwellings to preserve privacy and reduce overlook concerns, and providing uninterrupted back yard space for residents of both dwelling units. For example, this option prevents a detached SDU from being built directly behind the principal dwelling. Further, locating too close to the principal dwelling may result in “choppy” backyard space that is unusable. The back wall of the principal dwelling does not include encroachments such as chimney breast, window sills, architectural features, eaves and troughs that project not more than 0.6 metres from the principal dwelling. However, fire escapes or any feature required under the Building Code are exempt. A variation on this option would be to require that minimum rear yard amenity areas be delineated and provided for both the principle dwelling and the detached SDU.

Advantages	Disadvantages
Provides a minimum area for a usable backyard space for the homeowner and tenant.	Regulation may restrict the ability to establish a detached SDU especially on a smaller lot or a lot with a larger house. Variances may be required to reduce the minimum distance to accommodate the detached SDU and still meet other technical requirements such as setbacks.
Does not penalize detached SDUs located to the side of the rear yard and away from the principal dwelling.	

Suggested Approach: Option 6b

The suggested approach is to introduce a minimum distance between the detached Second Dwelling Unit and the back wall of the Principal Dwelling of 7.5 metres. The regulation only applies if the detached SDU is wholly or partially located directly behind the back wall of the principal dwelling, with the exception of encroachments and any features required under the Building Code such as fire escapes. Therefore, the draft regulation is:

- “i) The minimum distance between the detached Second Dwelling Unit and the back wall of the principal dwelling shall be 7.5 metres.
- ii) Notwithstanding i) above, the following encroachments shall not be considered as part of the back wall of the principal dwelling or as part of the wall of the SDU:
 - a) Window sills, chimney breasts, belt courses, cornices, eaves, troughs and other similar architectural



features, ductwork, venting, bay window, alcove, and other similar appurtenances that project not more than 0.6 metres from the exterior wall of the principal dwelling; and,

- b) Fire escapes, unenclosed porch, deck, or canopy that project not more than 1.5 metres from the exterior wall of the principal dwelling.
- iii) Notwithstanding i) above, the regulation shall not apply when encroachments identified in Subsection ii) a) and b) of a detached Second Dwelling Unit are located directly behind the back wall of the principal dwelling.”

9.2 Potential Design Requirements for Detached Second Dwelling Units

In addition to potential technical regulations in Section 9.1, there are also potential design regulations that may address impacts on abutting neighbours.

9.2.1 Windows above the First Floor

One concern abutting neighbours may have is privacy and overlook as tenants of the detached SDUs may have the ability to look into the rear yard of abutting lots especially from the second floor of the SDU if the SDU is setback only 1.0 m from the rear lot line.

Option 7a: Allow Windows above the First Floor facing the side and rear lot lines with minimum Interior Side and Rear Yard Setback of 1.5 metres when not facing a Laneway

This first option addresses windows above the first floor. As part of the Laneway Housing pilot project, windows are permitted above the first floor on the building façade facing the laneway or street. The laneway/street serves as a buffer to adjacent properties to reduce privacy and overlook concerns. This zoning permission applies to lots abutting a Laneway and corner lots. This regulation is recommended to be continued as a suggested approach. However, for lots not abutting a laneway, it cannot be expected that there be no windows on the second floor based on OBC requirements. Windows are permitted when facing a flankage lot line or the interior façade of the detached SDU.

This option allows a window on the second floor provided the setback along the rear and side lot lines is at or more than 1.5 metres. The increase in setback allows for additional privacy and reduction in overlook onto the abutting properties. Windows are permitted when facing the principal building.

This option will also allow a balcony above the second floor only if facing a laneway or a street.

Advantages	Disadvantages
Eliminates privacy and overlook concerns by abutting residents.	Regulation may be onerous if the subject lands abut an open space (i.e. abutting a park, natural area, “reverse lot frontage”), or other land uses such as commercial or institutional.
	Does not address windows on the first floor.




Option 7b: Prohibit Windows above the First Floor facing the side and rear lot lines

This second option would prohibit windows facing the side and rear lot line to maintain privacy, but permit windows above the first floor on the façade facing the principal dwelling or the backyard space in the rear yard. This approach is somewhat similar to the zone regulation found in the “Laneway Housing” By-law (By-law No. 18-299) where a window is only permitted when facing a laneway or permitted without restriction on the roof such as a skylight. This option only allows the windows on the side of the façade not facing the side lot line or the rear lot line but permitted when facing into the backyard.

Do you think...

Windows should be allowed on a second storey (above 1.5 m)?

If Yes, where?

-  Back of the Second Dwelling Unit
-  Front of Second Dwelling Unit
-  Side of the Second Dwelling Unit

Advantages	Disadvantages
Maintains the minimum setback requirements, so it's easier to interpret and understand.	Less flexibility in design, and a blank wall may look more unsightly than a wall with windows.
Reduced privacy impacts on abutting properties.	

Option 7c: Do not establish a Regulation restricting Windows on Second Floor

A third option is to not regulate the placement of windows and allow the homeowner the discretion to include windows on the second floor as part of the design. Windows can be placed on the second floor regardless of any concerns respecting privacy and overlook on abutting properties.

Advantages	Disadvantages
Fewer regulations means a more flexible zoning by-law that is less onerous on the homeowner. More design flexibility including the use of darker shade windows to reduce glare and privacy concerns.	Despite any technologies or building materials, the presence of windows will be a concern (real or perceived).
	Potential conflicts between neighbours and homeowner, and neighbours and tenant.

Suggested Approach: Option 7a

The suggested approach is to allow windows to be installed provided there is sufficient distance from the property line to reduce privacy and overlook concerns. Therefore, the suggested regulation is:

- a) Windows and doors are permitted only on the ground floor or within the roof. Dormers are not permitted.

- b) Notwithstanding a) above, windows and balconies are permitted above the first floor on the building façade which faces a Laneway, Street or where the rear lot line abuts a non-residential zone (e.g. commercial or open space zoning district).
- c) Notwithstanding a) above, windows are permitted if the detached Second Dwelling Unit at or more than 1.5 metres from any property line.”

9.2.2 **Balconies (not facing a Laneway or Street), Rooftop Patios, Rooftop Gardens, or Exterior Stairs above the First Floor**

Similar to permitting windows to only certain sides of the building to reduce concerns on privacy, another consideration are balconies and rooftop patios above the first floor. Any fire escapes and stairs that are a requirement under the Ontario Building Code are not the subject to this discussion.

Option 8a: Prohibit balconies and exterior stairs (except where required in the Ontario Building Code) on the second floor and prohibit rooftop patios

This option would prohibit stairs and balconies on the second floor and prohibit rooftop patios. This regulation would address privacy and overlook concerns. Stairs would have to be provided inside the building with the exception of fire escapes and stairs that are required by the OBC.

Advantages	Disadvantages
Ensure privacy, overlook, and general nuisance such as noise does not impact abutting neighbours.	Regulation may be onerous if the subject lands abut an open space or road (i.e. abutting a park, natural area, “reverse lot frontage”), or other land uses such as commercial or institutional.

Option 8b: Permit balconies and exterior stairs on the second floor, and prohibit rooftop patios above the top floor

A second option is to permit balconies and exterior stairs on the second floor, and rooftop patios. The Zoning By-law could require that patios be screened from view from the adjacent lands. This would allow the homeowner and designer to address privacy concerns to mitigate impact on adjacent lands.

Advantages	Disadvantages
Having no regulation benefits homeowners whose lands abut an open space, road, or other land uses and there is no privacy or overlook concerns.	Issues such as privacy, overlook, and general nuisance such as noise would be concerns by neighbours (real or perceived).
Fewer regulations mean a more flexible and a zoning by-law that is less onerous on the homeowner.	

Suggested Approach: Option 8a

The suggested approach minimizes privacy concerns. Although balconies and rooftop patios provide one form of amenity space for the tenant, it can be disruptive to abutting neighbours to noise and privacy considerations. The amenity space for the tenant can be provided in the rear yard.

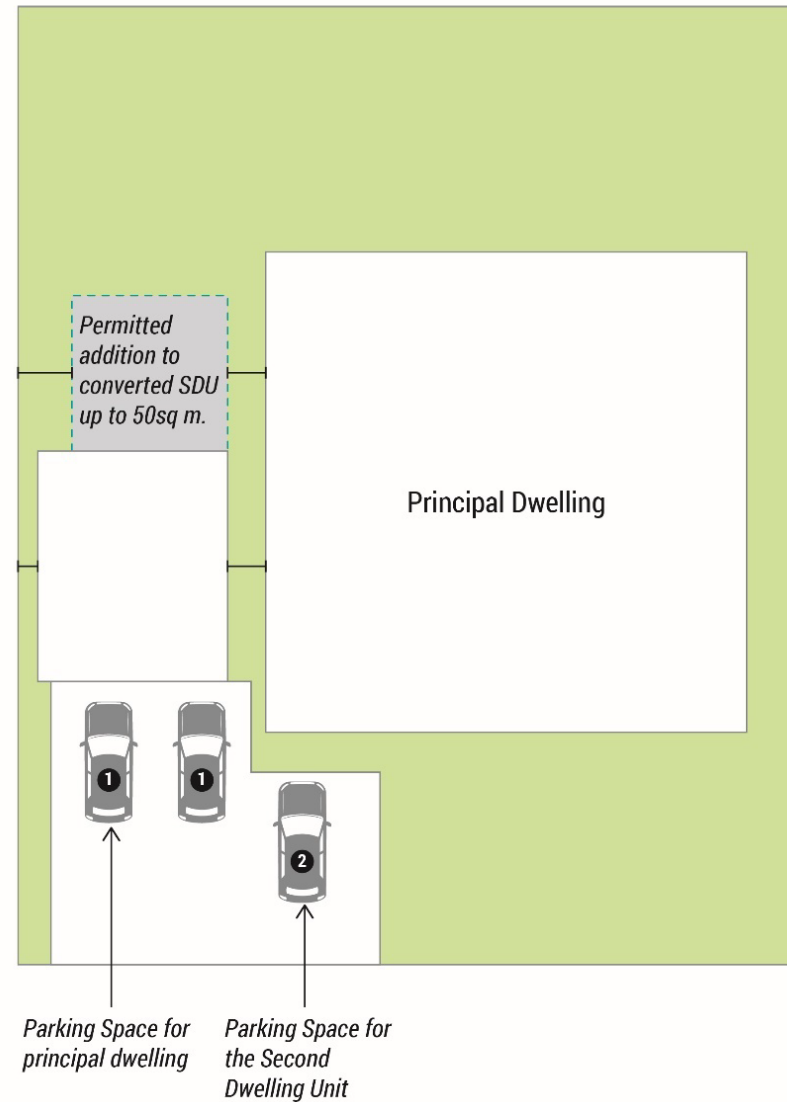
10.0 Potential Regulations for Converted Detached Second Dwelling Units

In addition to newly constructed detached SDUs, all or portions of an existing accessory building (such as detached garages and workshops) may be converted to a SDU. Converting an existing accessory building may save the homeowner construction costs and time compared to building from scratch. When converting an underused detached garage to a SDU, required parking must still be provided for the principal dwelling and SDU (if applicable). Lawfully constructed converted SDUs would only be permitted in accessory buildings that existed at the time of the passing of the By-law. Newly built accessory buildings that do not meet the performance standards for new detached SDUs would not be permitted to be converted.

There are two scenarios that may occur when converting an accessory building:

- Conversion of an accessory building without additions; and,
- Conversion of an accessory building with additions.

Similar to building a new detached SDU, mandatory regulations are required to provide safe access to the detached SDU in the rear and side yard for emergency personnel:



- A minimum 1.0 metre clear and unobstructed path with a clear overhead of 2.6 metres from the street to the entrance of the detached SDU;
- A maximum 40.0 metres linear distance from the street to the entrance to the SDU; and,
- Minimum distance requirement of 4.0 metres between the detached SDU and the main dwelling in the interior side yard for fire separation, access, landscaping, privacy, and grading and drainage.

The conversion of an existing accessory structure to a detached SDU would be permitted if the property owner could demonstrate conformity with the above criteria.

More information can be found in Section 11 of this Discussion Paper.

10.1 Potential Technical Requirements for Converted Detached Second Dwelling Units

The following are potential technical regulations for converted detached SDUs.

10.1.1 Introduction of a “Vacuum Clause” for converting existing Accessory Buildings to Second Dwelling Units

Accessory buildings such as detached garages and garden sheds are subject to zoning regulations such as setback requirements that are independent of the applicable residential zones. When an existing accessory building is proposed to be converted to a detached SDU, recognizing existing permissions is important to prevent zoning conformity issues. A vacuum clause recognizes pre-existing building locations that do not conform to the new regulations.

Do you think...

Existing garages or work shed, for example, should be allowed to be converted to a detached second dwelling unit, regardless of size?



Yes



No

Why or why not?

Option 1a: Do Not apply the Vacuum Clause to recognize non conformity with the Zoning By-law

The first option is to not apply a Vacuum Clause and instead require the homeowner to seek variances if they want to convert the existing accessory building to a detached SDU if the existing detached building/structure does not meet the By-law requirements for new construction.

Advantages	Disadvantages
Converting an existing accessory building would be subject to a Minor Variance application and public consultation which would allow for the property owner with an opportunity to address neighbourhood concerns. This approach is beneficial to neighbours who might otherwise object to the project due to concerns about compatibility.	This approach would be onerous for the homeowner adding permit processing cost and time, thus discouraging more Second Dwelling Units from being built.
	Potential overall increase in the number Minor Variance applications, increasing staff time to process and review applications.

Option 1b: Apply the Vacuum Clause to recognize and allow Existing Conditions

A second option is to apply a Vacuum Clause with wording similar to certain regulations found in Subsection 4.12 of Hamilton Zoning By-law No. 05-200. A Vacuum Clause is important when part of the project is to restore and retrofit an existing accessory building to allow for human habitation, and may include the following regulations: building height; gross floor area; and, side and rear yard setbacks.

Advantages	Disadvantages
Would be consistent with other types of uses that already apply the existing Vacuum Clause in the Zoning By-law and it is easy to interpret.	Could formally establish as an SDU a building that is located closer to the lot line than would have been allowed for new construction.
Homeowner would not need to seek a Minor Variance approval to facilitate the use. It saves time and money.	

Advantages	Disadvantages
Overall it may increase the number of Second Dwelling Units being built as the Vacuum Clause is seen as progressive and minimizes Building Permit processing time.	

Suggested Approach: Option 1b

The suggested approach is to introduce a Vacuum Clause to Section 4.12 of Hamilton Zoning By-law No. 05-200 specifically to allow the conversion of existing accessory dwelling units to detached SDU without the requirement to meet certain detached SDU regulations such as: building height; floor area; and, side and rear yard setbacks. However, the Vacuum Clause will not apply to health and safety Regulations such as the minimum 40.0 metres setback from the street and the 1.0 metres minimum unobstructed and cleared path for reasons of safety requirements.

The Vacuum Clause is intended to avoid or minimize hardships to property owners as a result of changing zoning regulations. As such, it would not apply to new construction which includes additions to existing accessory building. The following is a draft regulation to implement the suggested approach:

- “i) Notwithstanding any other provisions of this By-law, the conversion of any accessory buildings within a Residential Zone or Downtown Residential (D5) Zone existing prior to the effective date of this By-law to a detached Second Dwelling Unit shall be deemed to comply with the size, lot coverage, building height, gross floor area and setback requirements provided that:
 1. Such existing use is permitted by this By-law; and,
 2. Shall not apply to portions of the accessory building existing after the effective date of this By-law.”

10.2 Potential Regulations for additions to converted Second Dwelling Units

A homeowner may wish to fully convert an existing accessory building that has been underused for many years, but may want to put an addition to the existing accessory building to expand the floor area, such as a ground floor addition, or a second story addition.

Unlike a simple conversion of an existing accessory building, expanding an existing accessory building may impact abutting neighbours in terms of privacy, noise, overlook, grading, drainage, and loss of greenspace. This section discusses options ONLY for additions to converted SDU (and not the scenario of a converted portion of a detached SDU).

Option 2a: Prohibit additions to the accessory building

This first option would prohibit additions to the accessory building. The converted detached SDU would be restricted to the accessory building exactly how it exists either at the time of adoption of the regulations or some other predetermined date. Should the homeowner wish to put an addition, a Minor Variance or rezoning application would be required.

Advantages	Disadvantages
Converted detached SDU can only be established within the existing accessory building creates certainty for abutting property owners.	Restricts and discourage the ability for the homeowner to expand an existing accessory building.

Option 2b: Apply identical Technical Regulations as proposed for newly constructed Detached Second Dwelling Units to additions to converted detached Second Dwelling Units

This second option would permit additions to an existing accessory building, but the added portion of the accessory building (and not the existing portion of the accessory building) would have to meet the same regulations required for newly constructed detached SDUs. As suggested in Subsection 10.2.1, the converted portions of the detached Second Dwelling Unit would still be covered by the Vacuum Clause. Additions would be required to meet the following technical and design regulations as shown in Section 9.0 of this Discussion Paper.

Advantages	Disadvantages
Homeowners are able to expand their accessory buildings to meet OBC or market demands, especially if the building is small/substandard.	Meeting setback and building height requirements may restrict the ability for an addition to be built without seeking Minor Variance approvals.

Note that for Maximum floor area of the converted detached SDU, if the existing accessory building already exceeds 50 square metres, no further expansions would be permitted. For example, if an existing accessory building is 70 square metres, the existing accessory building can be converted in its entirety, but no additions would be permitted. However, if the existing accessory building is 30 square metres, only a 20 square metres addition is permitted for a total of 50 square metres.

A similar scenario is proposing a second storey addition to permit a SDU atop a detached garage. While the Vacuum Clause (see Section 10.2.1) would apply to side and rear setback, building height and the floor area of the detached SDU, the addition would still be subject to the proposed maximum 6.0 metres height, and 50.0 square metres size regulations.

Suggested Approach: Option 2b

This suggested approach would allow additions to existing accessory buildings to facilitate the development of a converted detached SDU, but require the addition to meet the standard by-law regulations being yard setbacks of 1.0 metre from the side and rear lot lines, maximum building floor area of 50.0 square metres, and maximum building height of 6.0 metres.

10.3 Potential Design Regulations for additions to converted Second Dwelling Units

In addition to technical requirements, the following are design considerations for converted detached SDU.

10.2.1 Design Regulations for converted Detached Second Dwelling Units

A homeowner wishing to convert and possibly put an addition to an existing accessory building may face similar challenges as impacts may arise such as privacy, overlook, and noise concerns. Certain design related approaches introduced in Section 9.0 can also apply to converted SDUs. Impacts may be similar, if not exacerbated as accessory buildings may be built closer to the property line. For example, the Ancaster Zoning By-law No. 87-57 permits accessory buildings be no more than 0.75 metres from any side or rear lot line. The subsection provides options to design regulations to apply to converted SDUs

Option 3a: Maintain the Original Design of the Accessory Building when converted to a Second Dwelling Unit

The first option is to prohibit any new design elements into the converted SDU except where required to meet Ontario Building Code requirements such as installation of a principal entrance and necessary windows for bedrooms and other living space. A similar regulation is found in Section 19 – Residential Conversion in Hamilton Zoning By-law No. 6593 where external appearances and character of the accessory building would apply.

Advantages	Disadvantages
Ensures consistency to the abutting neighbour as the external appearance of the accessory building remains untouched.	Limits the overall design and flexibility of the converted SDU, especially if the accessory building originally did not have windows. Minor Variances would be required to change the external appearance.

Option 3b: Apply identical Design Regulations under newly constructed detached Second Dwelling Units to additions to converted detached Second Dwelling Units

This second option would allow changes to the external appearances of an existing accessory building but require the addition to meet the same regulations as the newly constructed detached SDUs. Changes to the external façade of the existing building, including new additions, are required to meet the same design regulations shown in Section 9.0:

- Prohibit windows above the first floor but permit windows only if abutting a Laneway or Street; and,
- Prohibit balconies and exterior stairs on the second floor and prohibit rooftop patios.

Certain functional and safety elements such as fire exits as per the Ontario Building Code would be permitted.

Suggested Approach: Option 3b

This suggested approach would allow changes to the external appearances of an existing accessory building but require that the changes meet the regulations for newly constructed detached SDUs. This approach gives flexibility when building the addition as the external appearance can be suited to the homeowner, but will be required to meet any regulations as required.

11.0 Mandatory “Fire” Regulations for Detached Second Dwelling Units

In addition to technical and design regulations for new and converted detached SDUs, there are also certain “fire” regulations that are also included. These mandatory regulations address the ability to access the detached SDU in times of emergency and are also regulations in the OBC and Fire Code (upon building occupancy). These requirements are not discretionary and are therefore not presented as options. Addressing these issues in the Zoning By-law gives clarity and certainty to what is expected, and prevents changes to building plans at the Building Permit stage which can result in additional costs and time delays for the property owner. As a result, the regulations identified below are recommended for addition to the Zoning By-law.

11.1 Maximum Distance between Front Lot Line and entry to a detached Second Dwelling Unit

The ability of Hamilton Fire Department and EMS personnel to respond to emergencies in a detached SDU is important to reduce property damage and loss of life. Regulations are required to incorporate requirements from the OBC, in particular Part 9 of the Code that regulates new residential dwelling construction in the Urban Area. In accordance with the Code, any dwelling unit is required to be within 45.0 metres from the street where the pumper truck would be located to ensure fire hoses can reach the front door of the dwelling unit.

A standard fire hose can extend up to 45.0 metres from the pumper truck. However, consideration is taken to include the boulevard in front of the lot with a width of up to 5.0 metres between the street (where the pumper truck is parked) and the front lot line. Therefore, at maximum, a detached SDU should be constructed 40.0 metres from the front lot line while not having to be a straight line. For example, the total distance can be calculated by segments and angles to get to the entry to the detached SDU.

Based on the foregoing, a zone regulation to permit a maximum distance between the front lot line of a residential lot and the entry to a detached SDU is required as follows:

- “X) The maximum unobstructed linear distance between the front lot line or flankage lot line in a corner lot, and the entry to a detached Second Dwelling Unit shall be 40.0 metres.”

Although a laneway may be used to provide an alternative access to a residential lot, it is not preferred as an emergency access due to the lack of certainty of unobstructed access to the dwelling units, the unknown state of the laneway, the amount of naturalized vegetation, and uneven surface material. It is important to note that a Building Permit application to construct a detached SDU may still be denied if the distance exceeds 45.0 metres from the pumper truck regardless if the entry to the detached SDU is less than 40.0 metres.

11.2 Unobstructed Path Requirements to the detached Second Dwelling Unit

When a detached SDU is located in the side and/or back yard, an unobstructed path from the front lot line to the front door of the detached SDU must be provided located in at least one interior side yard. The path can be sodded or paved, but must not be a tripping hazard. The path must be clear of any obstruction such as parked vehicles, air conditioning units, stoops, stairs, fences that cannot be opened, and encroachments such as bay windows, ledges, or awnings to allow fire and EMS personnel safe and unobstructed access to the back yard. This regulation requires a 1.0 metre unobstructed path in the side yard, and can be provided as part of the minimum 3.0 metres physical distance between the principal dwelling and the detached SDU if the SDU is in the side yard, or as part of the side yard setback requirement between the side lot line and the main dwelling. A minimum height of 2.6 metres on the path must also be free of encroachments to prevent personnel from hitting their heads on awnings or other encroachments. Therefore, the minimum requirement for free and clear interior side path with the presence of a detached SDU (newly constructed or converted) is required as follows:

- “X) An unobstructed path between the front lot line and the detached Second Dwelling Unit with a minimum width of 1.0 metres and a minimum height of 2.6 metres must be provided free and clear of any obstructions, parking space, and encroachments.”

An amendment to the encroachment regulations in Section 4.0 – General Provisions is also required to ensure encroachments identified in Section 4.6 are not permitted in the path. Because these regulations are mandatory, if sufficient interior side yard setback cannot be provided, a new or converted detached SDU may not be permitted.

11.3 Minimum Separation Distance between the Principal Dwelling and the Detached Second Dwelling Unit

As mentioned in the previous subsection where a minimum 1.0-metre-wide unobstructed and clear path is requirement to allow emergency personnel to safely access the detached SDU between the street and front entrance, another concern is the distance between the detached SDU and the principal dwelling. In accordance to the OBC and in consultation with Building Services staff, a minimum distance separation greater than the 1.0 metre unobstructed path (except for plants, patio furniture, steps) is required to allow an appropriate fire separation between two dwellings. Generally, the larger the outer façade wall (also called the Exposing Building Face in the OBC), the greater the distance required to ensure fire does not spread to abutting buildings. The presence of windows increases the distance even more.

In addition to fire separation between buildings, a minimum distance between the exposing building face also addresses privacy and overlook concerns, grading and drainage issues in between buildings, and the opportunity for landscaping. Therefore, based on the above, the minimum distance between the detached SDU and the exterior wall of the principal dwelling should be 3.0 m. The following regulation is suggested.

“The minimum distance between the exterior wall of the detached Second Dwelling Unit and the exterior wall of the principal dwelling shall be 3.0 metres.”

12.0 Suggested Approaches to Parking Requirements and Design

Parking is a multifaceted issue and is not simply just providing a space for parking vehicles, but also consideration of how additional parking spaces affect the streetscape and general character of the neighbourhood; reduction of landscaping in the front yard; on-site stormwater management; and potential reduction in on-street parking due to a new or widened curb cut. Further, the inability to provide additional parking could restrict the ability to provide for new SDUs, if new parking requirements are to be added. This section discusses the preliminary options for two topics: residential lots having multiple driveways on one lot and parking requirements.

12.1 Existing Parking Requirement Calculation and Parking Arrangement in Hamilton Zoning By-law No. 6593

Under Zoning By-law No. 6593, when a homeowner establishes a SDU in the former City of Hamilton, the Single Detached dwelling (as it was previously identified) becomes a converted Single Detached Dwelling containing two dwelling units. For a two-family dwelling, 1.0 parking space per dwelling unit is required. For a single detached dwelling, a total of 2.0 parking spaces are required.

Two spaces are required regardless if it is a Single Detached dwelling or a converted Single Detached dwelling. Thus, changing the use does not affect the number of parking spaces required on a lot.

However, since the use is no longer a Single Detached dwelling, how the two required parking spaces are arranged on site is subject to different regulations. Under Section 18A of Hamilton Zoning By-law No. 6593, required parking spaces for the Single Detached dwelling can be arranged in a tandem position (one car behind the other). On a lot containing a converted Single Detached dwelling, the two required parking spaces cannot be parked in tandem and must be parked side by side.

Have you Ever...

Reconsidered establishing an SDU because of parking? (Circle One)

 Yes

 No

The rationale for this difference in parking arrangement is the accessibility of both vehicles when owned by different households. In a Single Detached dwelling, both vehicles can be easily moved because the car keys are accessible. However, in a converted Single Detached dwelling containing two dwelling units with two separate households, the outer vehicle is an obstruction to the other vehicle. With no access to each other’s keys, the inner vehicle cannot be used until the outer vehicle is removed. As a result, the second vehicle may end up parking on the street.

The table below is a summary of the difference in how parking requirements are calculated in Hamilton Zoning By-law No. 6593 and differences in parking arrangements. As noted, a double car driveway is required for a converted Single Detached dwelling containing two dwelling units due to required unobstructed maneuvering and full accessibility for both vehicles. Variances may be required if less than half of the front yard is landscaped or to reduce the number of required parking spaces for a converted Single Detached Dwelling.

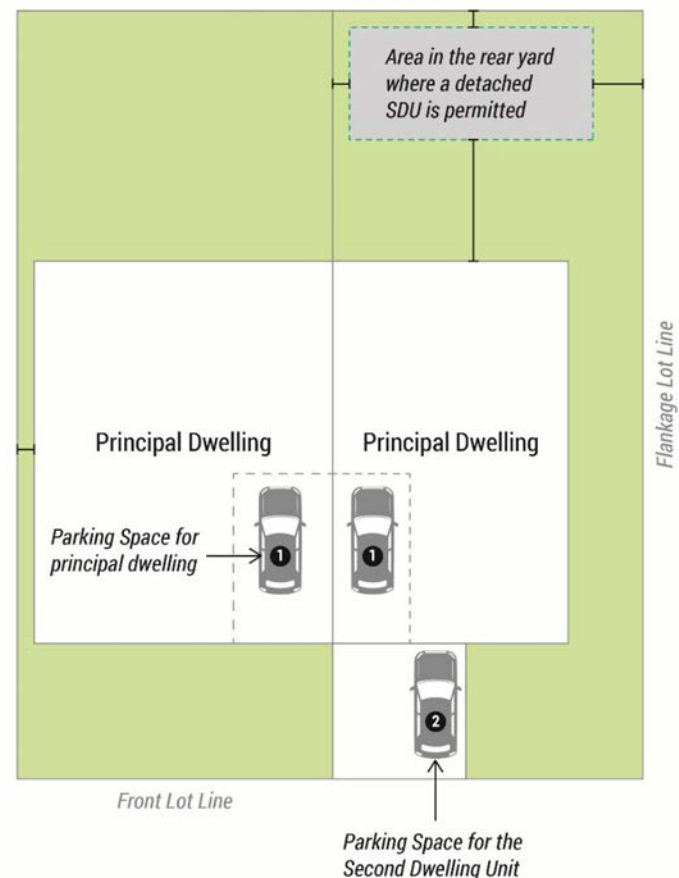
	Single Detached Dwelling	Converted Single Detached Dwelling containing two dwelling units
Parking Requirement	2.0 parking spaces	1.0 parking spaces per dwelling unit
Tandem Parking?	Yes	No
Ideal Parking Arrangement	Single Car Driveway, Double Car Driveway	Double Car Driveway

12.2 Proposed Parking Requirements and Parking Arrangements for Second Dwelling Units

Bill 108 states that one parking space can be required for each additional residential unit. However, the municipality has the opportunity to create regulations addressing individual parking needs. The options and potential approach includes reduced parking requirements for certain section of the City, especially where transit and cycling options are common and to ensure that front yard landscaping is retained. Through the Residential Zoning project, other suggested regulations may include minimum landscaping requirements in the front yard to ensure the entire yard between the street and principal dwelling is not paved over for parking.

Option 1a: Establish a consistent Minimum Parking Requirement throughout the Urban Area

This first option establishes a minimum parking requirement of 1.0 space per SDU in addition to the parking requirements of the principal dwelling throughout the urban area regardless of geographic location. This approach is the general standard used by municipalities around the City of Hamilton. This requirement would apply to both detached and attached SDUs.



Advantages	Disadvantages
Parking to be provided on site and does not create further parking demands on the street.	Providing parking for the SDU may be unnecessary especially in areas that are well served by public transit and bike lanes, and where there is a mix of land uses allowing for alternative modes of transportation be used.
	Providing a parking space might increase construction costs if the property owner and tenant feels the parking requirements is not necessary for their needs.
	Parking requirements impact the lower City the most as existing properties may not be physically able to accommodate the parking space, for example if there is no driveway on site.

Option 1b: No Parking Requirement for Second Dwelling Units throughout the Urban Area

The second option is to not establish minimum SDU parking requirements but is at the discretion for the homeowner to provide a parking space on site. This option would apply to both attached and detached SDUs.

Advantages	Disadvantages
Market demands or homeowner preferences will dictate the provision of parking. Even though parking is not required, a parking space may still be provided for the resident of the Second Dwelling Unit.	Residents of Second Dwelling Units may be required to park on the street, and thus competes for parking spaces with other residents.
	A disincentive by the property owner to provide additional parking for the tenant if the zoning by-law does not require it.

Option 1c: Parking requirement for Second Dwelling Unit based on Community and Geographic Area

The third option is to provide an area-specific parking requirement based on available infrastructure and services for high access to public transit and provision of bike lanes. These, in addition to sidewalks and mix of land uses, encourages alternative forms of transportation such as taking transit, cycling, and walking.

Further, in certain parts of Hamilton, residential lots cannot physically accommodate a driveway due to lot and building constraints. Conversely, simply not requiring parking for SDUs may be overly simplistic as there are certain parts of the City where today and for the short term driving may be one of few viable transportation options, residents of SDUs may be required to use a vehicle daily, and the potential result of not having parking will be spillover parking onto adjacent streets.

For example, a minimum of 1.0 parking space per SDU could be required in areas of the City where parking is also required for the principal building; but a reduction or elimination of parking requirements for a SDU in areas of the City where, no parking space is required for the principal dwelling.

Do you think...

Should there be areas of the City where no additional parking is required for SDU's?



Yes, only in certain areas with transit and cycling.



Yes, but in the entire Urban Area of Hamilton.



No, every Second Dwelling Unit should have a minimum of one space.

Advantages	Disadvantages
Benefits areas of the city where alternative modes of transportation are available, such as bike lanes and higher order transit.	Residents of SDUs may be required to park on the street, and thus competes for parking spaces with other residents.
Recognizes different parking requirements citywide.	<p>Transitional area homeowners may want to be included in the reduced parking area.</p> <p>A general parking requirement reduction may not address particular streets where there are tight parking supplies.</p>

Suggested Approach: 1c




The suggested approach is to require parking for SDUs based on community/geographic area and is similar to the approach taken for required parking for the principal dwelling unit. The approach recognizes geographic differences in the ability to provide parking onsite, and where alternative transportation options might not be available.

12.3 Tandem Parking




Tandem parking is where one parking space is located in front of the other such that the “outer” car would have to pull out for the “inner” car to have access to a public road or access driveway of a parking lot. Tandem parking may be present either in a single-car or double car driveway. Tandem parking is one option to explore to provide on-site parking for the resident of the SDU. Currently, with the exception of hotels utilizing a valet parking arrangement, tandem parking is not permitted in Hamilton Zoning By-law No. 05-200. The option is to either not permit tandem parking or to allow residents of SDUs the opportunity to allow tandem parking.

Have you Ever...

Lived in a basement apartment or coach house? Did the homeowner provide you with parking?
What kind of Parking was it? (Circle One)

-  No parking was provided to me as a tenant.
-  Yes, through a tandem parking arrangement.
-  Yes, a dedicated parking spot for me.

Did you own a car? Did you need a parking space? (Circle One)

-  No, I did not own a car. Never needed one.
-  Yes, I did own a car and needed a parking space.
-  Yes, I did own a car but I needed to sell it because no parking space was an option to me.

Option 2a: Do Not Permit Tandem Parking in conjunction with a Second Dwelling Unit

This first option does not permit tandem parking in conjunction with a SDU.

Advantages	Disadvantages
Prevents conflicts between households, especially where different work schedules are involved.	Residents may need to rely on on-street parking if available or rely on other forms of public transit.

Although tandem parking may not be an issue when there is one dwelling unit on a lot because keys are accessible within the household, tandem parking may pose logistical issues with the presence of more than one dwelling unit (i.e. 1 or 2 SDUs) because vehicle keys are not accessible by all households. This arrangement creates a scenario where the “inner” car is unable to maneuver due to the obstruction of another vehicle in front of it. This inconvenience renders the “inner” space unusable as the car cannot be maneuvered out of the parking space.


Tandem parking may not be necessary when there is a double car driveway allowing for all required parking spaces to have free and clear maneuvering to the street. However, for a single car driveway, the driveway will need to be widened to allow one unobstructed parking space for the resident of the SDU.

Option 2b: Permit Tandem Parking in conjunction with a Second Dwelling Unit

This second option permits tandem parking on a single driveway, allowing cars of differing households to park on a single driveway.

What do you think?

About tandem parking? Have you had to park behind another car in the past? What was your experience?

 _____

Advantages	Disadvantages
Reduces the need to widen the driveway to a double car driveway. In some situations, especially in the older parts of the City, widening to a double car driveway is not physically possible, or additional landscaping would be removed.	Potential logistical issues as keys to all vehicles may not be accessible by all households. This may cause the “inner” vehicle to have little or no operational ability especially when you have one or more vehicles obstructing access to the street.
Allows for greater efficiency of unused portion of the driveway.	May result in conflicts between households, especially when households have different work schedules.

Option 2c: No Regulation

This third option would not apply a regulation prohibiting or permitting tandem parking. By remaining “silent”, it allows the homeowner the opportunity to park one car in front of another, even if cars are owned by different households.

Advantages	Disadvantages
By not regulating tandem parking for SDUs, it gives the homeowner the discretion on whether tandem parking be used.	If the homeowner wishes to utilize a tandem parking arrangement, it may result in conflicts between households, especially when households have different work schedules and require access to their vehicle.

Suggested Approach: 2a

The approach would to prohibit tandem parking between spaces for the SDU and the principal dwelling, which prevents the car parked in the garage from being stuck behind a car owned by the tenant or homeowner. Cars owned by the tenant and homeowner would be required to be parked side by side, or in the case of a corner lot, on separate driveways if available.

12.4 Multiple Driveways on a Corner or Interior Lot

Existing regulations in Hamilton Zoning By-law No. 05-200 allow two driveways depending on a corner or interior lot:

“5.1b) On a lot containing a single detached dwelling, semi-detached dwelling or duplex dwelling in all zones except the Agriculture (A1) and Rural (A2) Zone:

viii) A maximum of one driveway shall be permitted for each dwelling unit, except in the case of:

1. A corner lot where a maximum of one driveway may be permitted from each street frontage; or,
2. On a lot having a minimum width of 30.0 metres, a maximum of two driveways may be permitted.”

A balance must be achieved between on-site and on-street parking. Curb cuts to accommodate multiple driveways result in the elimination of on-street parking that is used by both residents and visitors.

The intent is not to change the above regulation, but rather explore possibilities to build upon this regulation to one specific to lots containing an SDU (whether internal to the main dwelling or in a detached building) in conjunction with a single detached, semi-detached, and street townhouse dwelling. The following discusses options to address permitting a multiple driveway on a lot.

Option 3a: Prohibit a Second Driveway for Corner and Interior Lots

This first option removes the regulation prohibiting a second driveway. Several municipalities researched have shown a similar regulation prohibiting a second driveway on a residential lot regardless if the lot is interior to a block or is a corner lot. This option



creates a similar regulation prohibiting a second driveway for all residential lots, regardless if the lot is an interior or corner lot, or if the lot is extra wide to physically accommodate a second driveway.

Advantages	Disadvantages
Prohibiting the second driveway eliminates potential pedestrian, cycling, and vehicle conflicts especially at a corner lot, where multiple driveways are close to the intersection. This may be a concern to residents especially where there are lots of pedestrians and cyclists.	Excludes a potential solution to solve parking conflicts and maneuvering of vehicles between property owner and tenant especially in a single car driveway.
Prevent a second driveway from reducing landscaping or green space along the flankage or front yard, and which may potentially change the appearance of the neighbourhood / neighbourhood character.	An existing regulation in Hamilton Zoning By-law No. 05-200 already permits a second driveway on a corner lot and interior lots greater than 30.0 metres. Option is more restrictive than the general regulation.

Option 3b: Permit a Second Driveway only for Corner Lots with minimum driveway lengths.

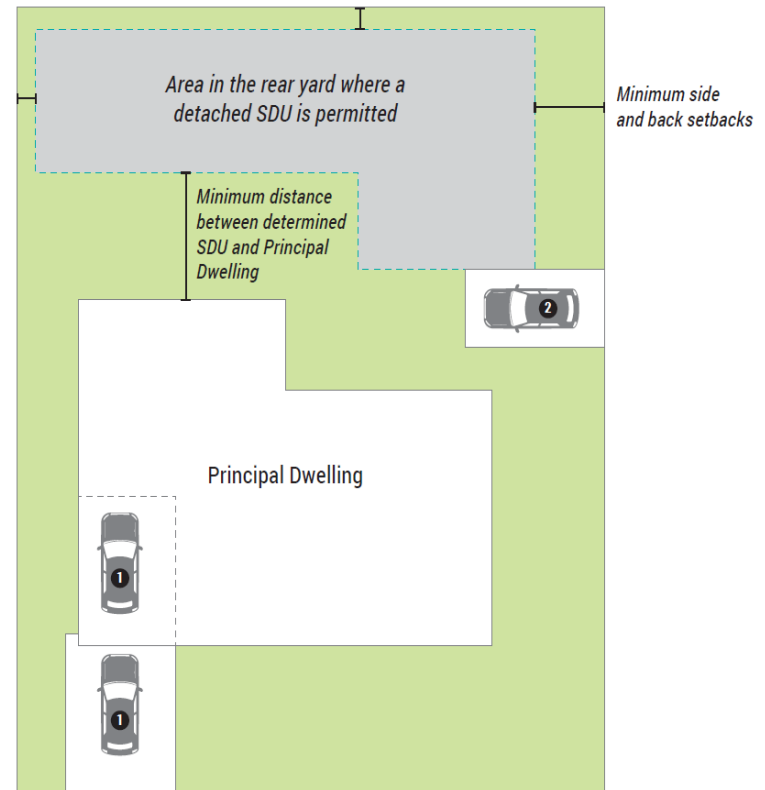
A second option is to maintain the same regulation as Subsection 5.1b)viii) 1) by permitting one driveway on each street frontage only for corner lots to provide parking for the tenant of the SDU, as shown in the diagram below. The second driveway must be able to accommodate the parking spot onsite without encroaching into the sidewalk. Further, the second driveway shall only be located on the side of the dwelling that does not contain the original driveway. Therefore, this option maintains the existing regulation but adds a minimum driveway length to ensure the parking space does not overhang the sidewalk or street. Option 3b proposes to prohibit a second driveway for an interior lot regardless of lot width and remove Subsection 5.1b)viii) 2). The approach prevents an undersized interior lot from establishing a second driveway.

Advantages	Disadvantages
Allows for a dedicated driveway for the tenant of the SDU, preventing conflicts in driveway functionality when two households park on the same driveway.	A second driveway from the intersection may make the corner appear cluttered, with an additional car parked on the property.
	A second driveway may increase pedestrian and vehicle conflict especially if really close to the intersection.

Suggested Approach: 3b

The suggested approach is to permit a second driveway for corner lots only, and continue to prohibit more than one driveway for interior lots. As noted in Subsection 5.1b)viii), interior lots with a lot width greater than 30.0 metres can establish a second driveway, but interior lots with a narrower lot will only be permitted one driveway. As noted in Section 11.3, tandem parking is not permitted between the parking spaces for the SDU and the principal dwelling.

Option 3b keeps the existing regulation but adds a minimum length of the driveway of 6.0 metres or more to ensure the parking space does not overhang the sidewalk or street.



13.0 Suggested Approaches to General Issues

This section identifies topics that are common to all types of SDUs (interior to an existing dwelling, and new and converted detached SDUs). As previously mentioned, the issue is not whether or not SDUs should be permitted. Bill 108 requires all municipalities in Ontario, including Hamilton, to permit up to two SDUs on residential lots with Single Detached, Semi-Detached, and Street Townhouse Dwellings. Municipalities can develop specific zoning regulations to address their own municipal concerns.

13.1 Second Dwelling Units in Condominium Tenure

A condominium is a form of tenure where all or a portion of land, buildings, and structures are owned by residents living in the development through their Condominium Corporation. As SDUs are permitted based on the housing type of the principal dwelling (single detached dwelling, semi-detached dwelling, and street townhouse), they are inherently also permitted in a condominium tenure. However, many condominium corporations are comprised of higher forms of development such as stacked townhouse, block townhouse, and maisonettes which are considered as multiple dwellings. The current policy and zoning framework do not envision SDUs in these forms of housing.

13.2 Restricting Second Dwelling Units on Floodplains?

With a Climate Change Emergency declared in Hamilton, it is acknowledged that lands previously prone to flooding may experience more extreme weather events especially in areas that are built up and with limited natural vegetation to absorb excess rainwater. Low-lying lands and creeks and rivers such as Spencer, Ann, and Sydenham Creeks in Dundas have been prone to flooding and Official Plans have included special policy areas restricting sensitive land uses due to health and safety issues. These guiding principles were carried over through Policies UD-1, UD-2, and UD-3 found in Volume 3 of the Urban Hamilton Official Plan. More information can be found in the text box below.

Currently, the Hamilton Conservation Authority is in conversations with the City of Hamilton on conducting the Lower Spencer Creek Subwatershed Study to review current policies and update as needed based on recent mapping and forecast modelling. The study will provide direction on the existing policies in the UHOP. A second example is By-law Nos. 19-277 and 19-278 for the Hamilton Beach Area which were approved by Council in November 2019 to increase the minimum ground floor elevation from 76.0 metres to

76.5 metres above mean sea level to ensure residential uses are not impacted by flooding impacts from Lake Ontario and Hamilton Harbour. This minimum elevation requirement also includes SDUs.

In light of the above, SDUs may or may not be permitted in areas that might be prone to flooding. Consultations between the Conservation Authorities, the City, and homeowners ensure the establishment of SDUs do not create an impact on or endanger future residents. Permits from the Conservation Authorities may also be required to ensure flood protection is implemented. In addition to Lower Spencer Creek, other areas in Hamilton may also be considered for restrictions such as in Stoney Creek's Battlefield Creek.

Floodplain Policy summary for the Spencer, Ann, and Sydenham Creeks in Dundas in Volume 3 of the UHOP

The Urban Hamilton Official Plan (UHOP) includes policies, identified below, for the protection of portions of Dundas where flooding may be a concern, especially in times during high water levels and rain events. Please refer to Volume 3, Chapter B - Dundas of the UHOP which also includes a map showing the extent of the policy area.

- UD-1: Where a proposal is made for development or redevelopment, contact the Hamilton Conservation Authority to determine floor protection policies. Permit may be required.
- UD-2: Existing and similar use, renovations of existing buildings are permitted, but expansions into the Natural Heritage System shall not be permitted.
- UD-3: Residential development or redevelopment shall be permitted subject to flood proofing elevation such as any habitable room elevation is located above regulatory flood level.

14.0 Illegal Second Dwelling Units

The City of Hamilton and the Town of Dundas are currently the only former municipalities permitting one SDU per Single Detached residential lot regardless of the age of the dwelling unit (Stoney Creek permits SDUs but in homes built before 1941, and Flamborough permits SDUs but in homes built before 1990). Through the Residential Zone project, it is intended the permissions are to be expanded

throughout the Urban and Rural Area, and in the process, SDUs that were once illegally established in terms of Zoning By-law regulations, may become legal if the units meet the requirements.

14.1 San Francisco's Unwarranted Dwelling Units

San Francisco has a similar issue as Hamilton where illegal SDUs exist. A "sunshine ordinance" was passed by the San Francisco Board of Supervisors, effectively legalizing illegal units which paved the way to allow legal occupancy of these units, subject to a building approval process.

Also called an Unwarranted Dwelling Unit (UDU), these illegal units may be legalized through their "Dwelling Unit Legalization Program" and applies to UDUs constructed before January 1, 2013. Owners of the UDU wanting to legalize their units must register and comply with building and fire inspection. Once these units comply with building and fire code, these units are considered as "Legalized Existing Dwelling Units". Both Legalized Existing Dwelling Units and Accessory Dwelling Units are not eligible to participate in the City's Short-Term Rental program and therefore cannot be rented out as an AirBnb.

The purpose of legalizing UDUs is to maintain the supply of affordable housing in the City, where the housing cost generally is higher than Hamilton. By legalizing these units, tenants who occupy the units can remain to live in the units and for these units to comply with building and fire code. Since 2014 when the legalization program commenced, the City received 658 permit applications to legalize already constructed units, and 163 have completed the legalization process. In addition, the plan review fees are waived for legalization permits of existing UDUs until January 1, 2020. However, other fees to bring it up to code still remain in place.

14.2 Los Angeles Bootlegged Apartment Amnesty Program

Locally called "Bootlegged Apartments", these are illegal units in Los Angeles that were constructed without a permit, and the zoning may not permit the use. The Amnesty program commenced after approximately 2,560 non-permitted units were cited during the 2010 and 2015 period over enforcement issues. During this period, 1,765 units were removed, and 201 units were able to be legalized by complying with the City's zoning and building regulations. The program temporarily stopped all enforcement and shutting down illegal uses to allow for the legalization of the apartment units.

Due to the removal of many affordable housing units, there were calls to address the remaining non-permitted units in the City. An ordinance was approved by Los Angeles City Council in May 2017 to legalize units built prior to 2015 and located in a Multiple Family Zone (R2 and above). These units are intended to remain affordable as defined by the California Department of Housing and Community Development for 55 years. The property owner is required to bring the units into compliance to the Zoning Code and Building Code on matters such as parking requirements and engage in a “good neighbor” set of performance standards. This ordinance applies only to multifamily buildings with in-law units and not single-detached dwellings with the same.

Any legalization of a non-permitted unit would result in increased cost of compliance with Building and Fire Code. After a literature scan, the ordinance was generally supported with no issues or concerns respecting financial implications to the landlord, or whether this would affect housing affordability. Further study would be needed to determine the ordinance’s success.

14.3 Orillia’s Legalizing Two and Three+ Dwelling Units

In 2018, the City of Orillia published a five-page booklet providing information on the legalization of residential buildings with two dwellings (principal dwelling unit plus one attached accessory dwelling). This booklet is a result of new zoning that Council adopted in 2018 and is an update to a 2011 document which also aimed at providing an amnesty to illegally constructed accessory dwelling units. This legalization program also applies to “apartments in houses” with three or more units. This program only applies to lands east of Highway 11 and in certain Residential, Commercial Intensification, Downtown Shoulder, and Health Care Zones. To further incentivize legalizing accessory dwelling units and the Building Department applies the same fees based on when the dwelling unit was established. After determining the earliest possible date of establishment, staff applies the appropriate fees. For example, for 2 dwelling units established prior to December 31, 1975, only the Fire Inspection fees apply.

14.4 Calgary’s Secondary Suite and Backyard Suite Fee Waiver

Council approved amendments to the Land Use By-law (identical to a Zoning By-law) in March 2018 to permit Secondary Suites in certain residential zones. Subsequently, Council approved By-law 10P2019 to permit Backyard Suites (detached SDUs) in January 2019. To address illegal units in the City, Calgary introduced a program to waive the Development Permit Fee (\$471) and Suite Registry Fee (\$232) from March 2018 to May 31, 2020. To qualify for the waiver, the dwelling units must be on the registry site by the expiry date. The fee waive program not only applies to addressing existing illegal units, but also new Secondary Suites and Backyard Suites. The

intent of the program is not only to bring existing illegal units to Building Code, but also encourage homeowners to build new units as well. Treating new and previously illegal backyard suites with the same fairness and process eliminates any discrimination of all units. Registration of all suites are required even if you intend to rent out the unit or not. As of February 2020, there were about 2,350 Backyard Suites in the registry citywide.

Starting June 1, 2020, administrators will reinstate both fees, and for existing illegal units, all secondary suites (regardless of construction date) will need to comply with the National Building Code - 2019 Alberta edition. Further, all secondary and backyard suites are required to be on the registry to avoid fines. To assist with homeowners, an “Existing Secondary Suite Permit Checklist” was created to explain each step along the way and provide options such as inspection of the suite before or after approval, tools to find the zoning of the property and zone regulations.

14.5 Is there a “Made in Hamilton” Solution for Illegal Units?

As mentioned above, illegal SDUs would require Building Permit approvals to meet Ontario Building Code and Zoning requirements. It is acknowledged that SDUs provide additional housing options that meets the needs of renters, and enforcement may compromise the living situation of tenants if there is a requirement to bring the dwelling units within OBC standards. However, the health and safety of tenants is paramount, and the requirement to maintain a healthy long-term housing stock necessary to achieve that.

A general observation from cities in Canada and the U.S. is that encouraging property owners to bring these units in alignment with Zoning regulations and permissions and Building Code requirements can be difficult because there is not enough enticement or benefit for property owners to do so. SDUs, whether they have become legal as a result of increased zone permissions, or whether they remain illegal due to the number of SDUs on a lot, may remain hidden to avoid bringing the dwelling unit to code. Further, there may be a fear by property owners that if they do the right thing by bringing these units to Code, they may incur significant monetary costs in repairs and a reduction in rental income.

The primary goal of having all units legalized is to ensure basic health and safety provisions as per the Ontario Building Code and Fire Code (upon occupancy). Based on the experience from other jurisdictions, the following list identifies potential solutions that may address the issue of already established illegal dwelling units:

- Hamilton Zoning By-law No. 05-200 includes zones that are flexible and permit a wide range of uses. As part of the future Residential Zone project, one option is to introduce a zone that permits a range of dwelling types as opposed to zones that are restrictive and permit only one or a few dwelling types. For example, a zone to permit single detached, semi-detached, duplex, triplex, and street townhouses as addressed in the third bullet. With as-of-right zoning in place, the only other concern is to bring the dwelling units to Building Code standards.
- Waive any registry, licensing fee and/or other fees to reduce the financial burden on the homeowner. Although fees generally do not make up a significant part of the building cost, a reduction or elimination of fees can be seen as a “goodwill gesture” by the City and shows collaboration between government and residents. As is the case in Calgary, the waiving of up to \$900 in fees for a maximum of two years until May 31st, 2020 has resulted in number of Secondary Suites and Backyard Suites (existing or new). It shows the municipalities are proactive and encouraging homeowners to come forward with their illegal dwelling units and register them in the City’s registry list. Hamilton can use Calgary’s experience to assist homeowners who have previously illegal SDUs.
- An option a few municipalities such as Orillia and Calgary have implemented is apply the Building Code based on the year the SDU was illegally constructed. If the homeowner is able to prove the illegal SDU was built in a certain year (through rent cheques, directories, or invoices), the Building Permit application can be reviewed against the Building Code in existence at the time of construction. However, if the illegal SDU was built without documentation, there may be difficulties on proving the date of construction and the existing Code regulations would be used instead.

15.0 Summary and Next Steps

The purpose of this Discussion Paper is to initiate a conversation about permitting SDUs in the Urban Area. The discussion is not whether SDUs should be permitted (due to requirements under Bill 108), but rather present options to ensure SDUs are compatible within a neighbourhood, and are not impacted through overbuilding, privacy, loss of open space, and grading and drainage.

The new Residential Zones project to update Hamilton Zoning By-law No. 05-200 is multi-phased, and the introduction of Discussion Papers is the first step prior to the formulation of actual zones. As part of the project, public engagement will be an important next step. The intent is to inform, educate and engage in discussion with the community, and receive feedback from residents and stakeholders.

For more information, please visit the City's website at www.hamilton.ca/residentialzoning

Bibliography

Government Publications and Reports:

As-of-Right Zoning for Secondary Suites Report PH3.1 (City of Toronto, February 25, 2019)

Census Profile, 2016 Census: Hamilton, Ontario (Statistics Canada, 2016 Census of Canada, 2016)

Department of City Planning – Recommendation Report on the Proposed Unapproved Dwelling Unit Ordinance Amends Section 14.00 of the Los Angeles Municipal Code (LAMC) for the purpose of creating a new process for granting legal status to Unapproved Dwelling Units in Existing Multiple-Family Dwellings (City of Los Angeles, 2016)

Guidance on Implementing the Accessory Dwelling Units (ADU) Requirement (State of Oregon, Oregon Department of Land Conservation and Development, March 2018).

Housing Intensification Study to the January 29, 1991 Planning and Development Committee (City of Hamilton, 1991)

Housing Choices: Second Units Review (City of Mississauga Planning and Building Department, 2012)

Housing Intensification Study Report P5-4-2-18 (City of Hamilton, January 29, 1991)

Information Guide to Legalizing Existing Units (City of Orillia, 2018)

Ontario’s Long-Term Affordable Housing Strategy – Update: March 2016 (Ministry of Municipal Affairs and Housing, 2016)

Planning & Environment Committee - Citywide Official Plan and Zoning By-law Amendments – Secondary Dwelling Units (City of London, November 26, 2013)

Proposed new Regulation and Regulation Changes Under the *Planning Act*, including transition matters related to Schedule 12 of Bill 108 – the *More Homes, More Choice Act, 2019* (Ministry of Municipal Affairs and Housing (2019)

Public Meeting: Secondary Residential Units City-wide Zoning By-law Amendment (City of Cambridge, February 13, 2018)

Rental Market Report for Hamilton CMA, 2018 (CMHC, 2019)

Rental Market Report for Hamilton CMA, 2019 (CMHC, 2020)

Second Dwelling Units: A Homeowner’s Guide (Town of Innisfil, April 2016)

Second Dwelling Units Background Report (Town of Innisfil, 2013)

Second Units: Info Sheet – Spring 2017 (Ministry of Municipal Affairs and Housing, 2017)

Websites:

D. Gellman, A. Meirson, A. Klein. (June 1, 2018). Unwarranted (“in-law”), Legalized & Accessory Dwelling Units in San Francisco.

Retrieved from <https://g3mh.com/wp-content/uploads/2018/06/2018-ADU-FAQs.pdf>

J. Sabatini. (Feb 25, 2018). Just 23 in-law units built after two years as SF seeks to iron out approval process. San Francisco Examiner.

Retrieved from <http://www.sfexaminer.com/just-23-law-units-built-two-years-sf-seeks-iron-approval-process/>