

## Staff Report

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**Report To:** Community Services Committee  
**Report From:** Dave Aston and Aleah Clarke, MHBC Planning  
**Meeting Date:** November 23, 2022  
**Report Code:** CS-22-154  
**Subject:** Technical Report respecting Proposed Zoning By-law Amendment No. 41 Additional Residential Units

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### Recommendations:

THAT in consideration of Staff Report CS-22-154 respecting Zoning By-law Amendment No. 41 being a housekeeping amendment to the City's Zoning By-law No. 2010-078, the Community Services Committee recommends that City Council:

1. Approve Zoning By-law Amendment No. 41, being a housekeeping amendment to the City's Zoning By-law that implements *Planning Act*, County Official Plan and City Official Plan requirements respecting Additional Residential Units; and
2. Direct staff to continue to process the amendment in accordance with the *Planning Act*, as outlined in the report.

### Highlights:

- The City-initiated Zoning By-law Amendment is proposed to implement the City's 2021 Official Plan which increased the permissions for ARUs and encourages the provision of affordable housing. The City's Official Plan (OP 9.1.1.2) provides the City may amend the Zoning Bylaw where in the opinion of Council, sufficient justification exists. Amendments must conform to the policies of the Official Plan.

- The proposed Zoning By-law Amendment seeks to amend the General Provisions of the Zoning By-law to permit ARUs in any single detached dwelling, semi-detached dwelling or row house, or ancillary building, provided the specific zoning provisions, including servicing, can be met on the lands. The Zoning By-law would permit a maximum of three (3) dwelling units on a lot where ARUs are permitted.
- The proposed Zoning By-law Amendment implements and conforms to the City's Official Plan.
- The proposed Zoning By-law amendment is consistent with the PPS and has regard to the Planning Act. The proposed Zoning By-law amendment conforms to the County Official Plan.
- Under the provisions of the *Planning Act*, there are no appeal rights to a Zoning By-law Amendment passed for the purposes of ARUs.

### **Strategic Plan Alignment:**

This report supports the delivery of Core Service. Amendments to the City's Zoning By-law are also subject to the legislated review process provided under the *Planning Act*.

### **Previous Report/Authority:**

[Planning Act, R.S.O, 1990, c. P13](#)

[City of Owen Sound Official Plan \(2021\)](#)

### **Background & Proposal:**

The new City of Owen Sound Official Plan (OP) was approved by the County of Grey in February 2022. The Official Plan guides long-term decisions that relate to land use and planning. It establishes the policies for implementing provincial direction and interest while setting out the framework that shapes our City's physical, economic, and social development.

During the City of Owen Sound's Official Plan review, housing choice and affordability were recurring themes mentioned during all forms of consultation and engagement. Providing and supporting housing choice by unit size, type and ownership that is affordable and attainable throughout the continuum requires a coordinated and cooperative effort between stakeholders, governments, agencies, developers, not-for-profits, and individual residents.

Since the OP was updated, the City has been introducing new zoning regulations through housekeeping amendments to implement the new Official Plan. Recent Provincial and County Official Plan updates have also provided opportunity to review the City's housing policies and other initiatives and practices to support attainable and affordable housing.

This City-initiated Zoning By-law Amendment is proposed to implement the City's 2021 Official Plan which increased the permissions for ARUs and encourages the provision of affordable housing. The proposed Zoning By-law Amendment seeks to expand the permissions for ARUs from the existing provisions for "Accessory Apartments" in the current Zoning By-law.

### **Technical Review:**

The Planning Act, Provincial Policy Statement (PPS), County of Grey Official Plan and the City's Official Plan establish criteria for affordable housing and ARUs.

In making land use planning decisions, Council must consider the matters of Provincial interest as described in Section 2 of the Planning Act. Section 3 of the Planning Act also prescribes that the decision of Council on a planning matter shall be consistent with the policy statements issued under the Act, which includes, among others, the Provincial Policy Statement.

The City's Official Plan (Section 9.1.1.2) presents the City to amend the Zoning By-law where in the opinion of Council, sufficient justification exists. Amendments must conform to the policies of the Official Plan. The Planning Act and the City's Official Plan establish criteria for evaluating an application to amend the City's Zoning By-law.

The application is subject to review by the City's Development Team and external commenting agencies. Public notice will be given, and public input will be included as part of the overall process.

All applicable policies, standards, and review comments will be fulsomely reviewed in the Staff Recommendation Report (anticipated to come forward at Council early in 2023). The review below describes the proposal and outlines the key considerations relevant to the proposed Zoning By-law Amendment.

When considering an amendment, the City should consider the goals, objectives, and policies of the Official Plan. Additionally, decisions should

consider the compatibility with adjacent uses of land and servicing (transportation, sewer, and water).

## **A: Planning Act and Provincial Policy Statement**

### Planning Act

The *Planning Act* (1990) is a provincial document that guides development and the various planning approvals and processes involved.

The City is required to ensure that all planning decisions and documents integrate provincial interests and comply with the Planning Act, as well as other provincial policies such as the Provincial Policy Statement.

The Planning Act identifies the following as matters of provincial interest which relate to housing and affordability:

*"The adequate provision of a full range of housing, including affordable housing" (Section 2(j))*

Section 35.1 of the Planning Act directs municipalities to include regulations in zoning by-laws to permit ARUs, specifically two residential units in low-density street fronting residential building types and a residential unit in a building ancillary to low-density street fronting residential building types.

Section 34 relates to the approval of Zoning By-laws. The Planning Act stipulates that there is no appeal of ARU policies and associated Zoning By-laws Amendments. Through the no appeal restriction on ARUs, the new Official Plan Policy and Zoning By-law provisions are protected from appeal where a municipal government approves them. This restriction helps ensure that ARUs are approved in a timely manner.

Recent changes to the Planning Act, including Bill 109 and Bill 23, are also considered. More detail on Bill 23 will be provided in a subsequent staff report.

### Provincial Policy Statement (PPS)

The 2020 Provincial Policy Statement (PPS), issued under the authority of Section 3 of the Planning Act, came into effect on May 1, 2020. The PPS establishes the policy foundation for regulating the development and use of land, as well as provides direction on matters of provincial interest related to land use planning and development.

There is policy and language about housing through numerous sections of the PPS, including those that address healthy communities, settlement areas and infrastructure.

Section 1.4.3 of the PPS contains policy direction to provide for an appropriate range and mix of housing options and densities to meet the projected market-based and affordable housing needs of current and future residents of the regional market area.

The provision of appropriate range and mix of housing options and densities is promoted and is directed towards locations where appropriate levels of infrastructure and public service facilities are available to support current and projected needs.

The PPS also encourages density-focused development and residential intensification to more efficiently use land, resources, infrastructure and public service facilities while minimizing the cost of housing and facilitating compact form while maximizing the use of existing servicing infrastructure. The PPS notes the role of additional residential units in facilitating residential intensification and creating a range and mix of housing options.

The proposed Zoning By-law amendment is consistent with the PPS and has regard to the Planning Act.

## **B: City of Owen Sound Official Plan (2021)**

The County of Grey approved the new City of Owen Sound Official Plan (OP) in 2022. The Official Plan guides long-term decisions related to land use and planning and establishes the policies for implementing provincial direction and interest while setting out the framework that shapes the City's physical, economic, and social development. The Official Plan was updated to conform to provincial plans; have regard to matters of provincial interest; be consistent with the Provincial Policy Statement and conform with the policy and direction provided in County Official Plan.

Section 3.1.5 of the Official Plan supports the integration of attainable housing units within the existing community fabric in all designations and Planning Areas where residential uses are permitted.

Section 3.1.7 includes ARU policies and defines ARUs as follows:

*3.1.7.7 A separate dwelling unit containing a bathroom and separate cooking facilities and contained within the structure of a single*

*detached, semi-detached or row house residential dwelling or in a building or structure ancillary to a single detached, semi-detached or row house residential dwelling and may be established by the following:*

- a. Not more than two ARUs are permitted in association with an existing legal dwelling unit on a lot, and a lot may not contain more than two ARUs.*
- b. All requirements of the Zoning By-law, the Ontario Building Code, the Ontario Fire Code, the Property Standards By-law and relevant municipal and provincial regulations can be satisfied.*
- c. Adequate on-site parking to serve the ARU on one driveway.*
- d. Municipal services and community facilities are adequate to meet the anticipated demand in the neighbourhood to the satisfaction of the City.*
- e. The outward appearance of the principle dwelling is not changed, and the neighbourhood character is maintained.*

Section 3.1.1 of the Official Plan regulates permitted uses in the Residential land use designation and includes ARUs as a permitted use in the following built forms:

- Single detached dwellings
- Semi-detached dwellings
- Rowhouses
- A building ancillary to a single detached dwelling, semi-detached dwelling or row house

Section 3.1.3 of the Official Plan includes General Policies for the Residential designation, and Section 3.1.3.5 notes that the city will enable “as-of-right” permissions for ARUs in residential areas.

The proposed zoning by-law amendment seeks to amend the General Provisions of the Zoning by-law to permit ARUs in any detached dwelling, semi-detached dwelling, row house, or ancillary building provided the other zoning provisions, including servicing can be met.

The proposed Zoning By-law Amendment implements and conforms to the City's Official Plan.

### **C: County of Grey Official Plan**

The County of Grey Official Plan, through Amendment No.11, has introduced the term "additional residential units". A new policy is introduced which defines ARUs as follows:

*Additional Residential Units (ARUs) are also known as basement apartments and accessory apartments. They are structurally permanent self-contained residential units with private kitchens, bathroom, and sleeping facilities within a main residence or structures additional to a dwelling (e.g., above garages).*

Section 4.2.5 of the Official Plan permits the use of two residential units in a detached house, semi-detached house or rowhouse, and the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.

Municipalities are directed to develop local policies and zoning regulations that establish appropriate standards which protect neighbourhood character, public health and safety, and enjoyment of abutting properties without unduly restricting the creation of such dwelling units. In settlement areas or the countryside without full municipal services, well water records or designated appropriate authority for sewage systems may be necessary before granting a building permit.

The County places the following restriction on ARUs:

*Additional residential units shall not be permitted in the Hazard Lands land use type and may be allowed in the flood fringe overlay subject to conservation authority review. Up to one additional residential unit shall be permitted on lands designated Inland Lakes & Shoreline.*

The draft Zoning By-law amendment proposes ARUs in areas zoned for residential use and not within Open Spaces or Hazard Lands. The proposed Zoning By-law Amendment conforms to the County's Official Plan.

### **Draft Zoning By-law Amendment**

In accordance with the City Official Plan, the regulations of Zoning By-law 2010-078, as amended are proposed to be expanded to permit ARUs on any property where a single detached, semi-detached, or rowhouse (street-

fronting townhouse) is permitted as of right. The accessory apartment provisions are proposed to be deleted and replaced with new ARU provisions under Section 5 of the Zoning By-law. The definition of an Additional Residential Unit is proposed to be added to the Section 4 Definitions of the Zoning By-law.

The Zoning By-law is proposed to be amended as follows:

Current Zoning	Proposed Zoning
<p>Section 6.1.i) (to be deleted)</p> <ul style="list-style-type: none"> <li>▪ An Accessory Apartment may be permitted in a Single Detached Dwelling in the R1, R2, R3, R4, R5 and MR zones in accordance with the following: <ul style="list-style-type: none"> <li>○ Only one (1) accessory apartment shall be permitted in any Single Detached Dwelling;</li> <li>○ A minimum of one (1) additional on-site parking space shall be provided for the accessory apartment and shall be independently accessible at all times;</li> <li>○ All regulations associated with the zone must be complied with;</li> <li>○ An Accessory Apartment shall not be more than 33% of the total floor area of the principle dwelling unit on the lot;</li> <li>○ An Accessory Apartment cannot be located in an accessory building or attached garage; and,</li> <li>○ Any Accessory Apartment shall be required to obtain a Building Permit from the City.</li> </ul> </li> </ul>	<p>Section 5.27 (to be added)</p> <ul style="list-style-type: none"> <li>▪ An Additional Residential Unit may be permitted in any Zone where a Single Detached Dwelling, Semi-detached Dwelling or Townhouse is permitted in accordance with the following: <ul style="list-style-type: none"> <li>○ A maximum of two (2) additional dwelling units is permitted per lot;</li> <li>○ A minimum of one (1) additional on-site parking space shall be provided for each additional residential unit;</li> <li>○ All regulations of the zone must be complied with;</li> <li>○ A maximum of one (1) additional dwelling unit is permitted to be located in an accessory building per lot and must comply with the provisions of Section 5.9;</li> <li>○ Any additional residential unit shall be required to obtain a Building Permit from the City;</li> <li>○ For lots that are partially or not connected to municipal services, well water records or approval from the designated authority for sewage systems is required;</li> <li>○ Additional residential units in the Agricultural zone must be located in the existing single</li> </ul> </li> </ul>

	<p>detached dwelling or in a non-agricultural accessory structure in the existing farm cluster;</p> <ul style="list-style-type: none"> <li>○ Additional residential units in the flood fringe overlay shall not be permitted without a permit from the Conservation Authority.</li> </ul>
<p>Section 5.19.1.b)</p> <ul style="list-style-type: none"> <li>▪ Notwithstanding Table 5.19.1, where a lot contains a single detached dwelling, semi-detached dwelling, duplex, accessory apartment, or street-fronting townhouse where parking stalls are accessed directly from a driveway, no accessible stalls are required.</li> </ul>	<p>Section 5.19.1.b)</p> <ul style="list-style-type: none"> <li>▪ Notwithstanding Table 5.19.1, where a lot contains a single detached dwelling, semi-detached dwelling, duplex, additional residential units, or street-fronting townhouse where parking stalls are accessed directly from a driveway, no accessible stalls are required.</li> </ul>

The proposed zoning By-law amendment is attached as Schedule 'A'.

### Next Steps:

In accordance with the Planning Act and City protocols for processing Planning Act Applications, the following outlines the next steps in the process:

Anticipated Date	Step
December 19, 2022	Notice of Public Meeting Given (Tentative)
January 16, 2023	Public Meeting (Tentative)
January 30, 2023	Recommendation Report to Council (Tentative)
To Be Confirmed	Enacting By-laws to Council

## **Financial Implications**

The budgetary implications of the proposed Zoning By-law Amendment are minimal. The process will incur administrative fees from providing public notice in the Sun Times newspaper, as legislated by the Planning Act. Additionally, an amendment initiated by the City does not collect application fees as it would from an external application.

## **Communication Strategy:**

Notice of Public Meeting will be provided upon direction received from City Council to proceed with the public process for the City-initiated amendment.

The public notice and a copy of this report would be made available on the City's website

## **Consultation:**

In addition to the public notice, the Planning Division will send a request for comments to the City's Development Team and external commenting agencies, further detailing the nature of the applications.

All comments will be considered as part of the Staff Recommendation Report.

## **Attachments:**

Schedule 'A': Draft Zoning By-law Amendment

## **Recommended by:**

David Aston, M.SC., MCIP, RPP, MHBC Planning (Consulting Planner for City)

Pam Coulter, BA, RPP, Director of Community Services

## **Submission approved by:**

Tim Simmonds, City Manager

For more information on this report, please contact Sabine Robart, Senior Planner, at [srobart@owensound.ca](mailto:srobart@owensound.ca) or 519 376 4440 x. 1236.

# **SCHEDULE A**

## **DRAFT BY-LAW NO. 2022-0XX – Zoning By-law Amendment**

WHEREAS the Planning Act R.S.O. 1990, c. P.13 (the "Planning Act") provides that the Council of a local municipality may pass by-laws for prohibiting the use of land and for prohibiting the erection, location or use of buildings and structures for or except for such purposes as may be set out in the by-law and for regulating the use of lands and the character, location and use of buildings and structures; and

WHEREAS Section 34 of the Planning Act permits the council of a local municipality to pass a by-law to specify the use to which lands, buildings or structures in the City; and

WHEREAS on April 12, 2010 the Council of The Corporation of the City of Owen Sound (the "City") passed the Comprehensive Zoning By-law No. 2010-078 to Implement the Official Plan and to Regulate The Use Of Land in the City; and

WHEREAS the Council of the City is desirous of adopting a Zoning By-law Amendment pursuant to Section 34 of the Planning Act; and

WHEREAS such amendment to the Zoning By-law No. 2010-078, as amended, will maintain the terms and intent of the City of Owen Sound Official Plan; and

WHEREAS the Council of the City has carefully considered all public comments throughout the process; and

WHEREAS on January 16, 2023, a public meeting was held under Section 34 to the Planning Act, R.S.O 1990, to consider rezoning; and

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

1) Section 5 is hereby amended by adding after 5.26 the following:

### **5.27 ADDITIONAL RESIDENTIAL UNITS**

An Additional Residential Unit may be permitted in any Zone where a Single Detached Dwelling, Semi-detached Dwelling or Townhouse is permitted as of right in accordance with the following:

1. A maximum of two (2) additional dwelling units is permitted per lot;
2. One (1) additional on-site parking space shall be provided for each additional residential unit;
3. All regulations of the zone must be complied with;
4. A maximum of one (1) additional dwelling unit is permitted to be located in an accessory building per lot and must comply with the provisions of section 5.9;

5. Any additional residential unit shall be required to obtain a Building Permit from the City;
6. For lots that are partially or not connected to municipal services, well water records or approval from the designated authority for sewage systems is required prior to granting a building permit;
7. Additional residential units in the Agricultural zone must be located in the existing single detached dwelling, or in a non-agricultural accessory structure in the existing farm cluster;
8. Additional residential units in the flood fringe overlay require conservation authority approval.

2) Section 4 is hereby amended by adding the definition as follows:

**'Additional Residential Unit'** means a separate dwelling unit containing a bathroom and separate cooking facilities and contained within the structure of a single detached, semi-detached or Street Fronting Townhouse dwelling or in a building or structure ancillary to a single detached, semi-detached or Street Fronting Townhouse dwelling

3) Section 6 is hereby amended by removing section 6.1.i) regarding Accessory Apartment.

4) Section 5 is hereby amended by revising section 5.19.1.b) as follows:

- b) Notwithstanding Table 5.19.1, where a lot contains a single detached dwelling, semi-detached dwelling, duplex, additional residential units, or street-fronting townhouse where parking stalls are accessed directly from a driveway, no accessible stalls are required.

This By-law shall come into full force and effect upon the final passing thereof.

FINALLY PASSED AND ENACTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

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Mayor

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City Clerk