

## Staff Report

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**Report To:** City Council  
**Report From:** Dave Aston and Aleah Clarke, MHBC Planning  
**Meeting Date:** February 13, 2023  
**Report Code:** CS-23-022  
**Subject:** Recommendation Report – ZBA No. 41 - Housekeeping Amendment to Permit and Regulate Additional Residential Units (ARU)

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### Recommendations:

THAT in consideration of Staff Report CS-23-022 respecting Zoning By-law Amendment No. 41 being a housekeeping amendment to the City's Zoning By-law 2010-078, as amended, to permit Additional Residential Units, City Council:

1. In consideration of the staff reports and recommendations, technical reports, and oral and written submissions, finds that the application is consistent with the Provincial Policy Statement and the goals and objectives and intent of the City's Official Plan and represents good planning; and
2. Directs staff to bring forward a by-law to pass Amendment No. 41 to the City's Zoning By-law No. 2010-078, as amended and give notice in accordance with Section 34 of the *Planning Act*.

### 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 that the City may 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 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 that 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.
- The Zoning By-law Amendment is recommended for approval.

### **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 \(2021\)](#)

[CS-22-154 Technical Report respecting proposed Zoning By-law Amendment No. 41 Additional Residential Units](#)

### **Background & Proposal:**

The new City Official Plan (OP) was adopted by City Council and 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 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.

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.

### 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 throughout 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 current 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 as of right 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 residential unit is permitted to be located in an accessory building per lot, provided the additional residential unit has direct access from the street or dedicated parking space and the accessory building 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</li> </ul> </li> </ul>

Current Zoning	Proposed Zoning
	<p>authority for sewage systems is required;</p> <ul style="list-style-type: none"> <li>○ 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;</li> <li>○ Additional residential units in the flood fringe overlay shall not be permitted without a permit from the Conservation Authority.</li> <li>○ Additional residential units are exempt from the provisions that establish maximum density as a measure of dwelling units per square metre of total development parcel area.</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'.

**City Staff & Agency Comments**

In response to the request for comment from the Planning & Heritage Division, the following comments have been submitted for review pertaining to the subject application. All comments can be found attached hereto as Schedule 'B'.

## **Bell Canada**

Comment has been received from Bell Canada with no objection to the subject proposal.

## **Historic Saugeen Metis (HSM)**

Comment has been received from HSM with no objection to the subject proposal.

## **Grey County**

Comments have been received from County of Grey with no objection to the proposed zoning by-law amendment. County staff did provide comments related to the proposed zoning by-law amendment as noted below:

- For ARUs in ancillary structures, the City may wish to consider adding a provision for a clear, unobstructed pathway from the street (or driveway) to the entrance of the ARU, to facilitate independent access to the unit, not through the primary dwelling.
- The City may wish to contemplate how the proposal to permit three units within a single house would coexist with the current zoning provisions pertaining to "converted dwellings." In particular, staff would note that converted dwellings require a minimum density of 1 unit per 250 m<sup>2</sup> of property area. County staff may kindly recommend removing this density provision, provided all other provisions of the zone can be achieved, in order to reduce barriers to new unit creation.
- Given the availability of public transit systems with the City, County staff wonder if there is opportunity to reduce the 1-parking spot per-unit requirement for some areas of the City, to encourage the use of public transportation and to further reduce barriers to unit creation. Some demographics who would most benefit from ARUs (such as older adults and college students) tend to be less likely to own vehicles. Some municipalities have taken the approach of requiring one additional parking stall only when two ARUs are proposed, in areas that are easily serviced by public transportation. Units without designated, on-site parking may also be more affordable on the rental market.
- To support the use of ARUs for long-term residential purposes and to alleviate housing shortfalls, County staff would recommend that the City consider developing a short-term rentals by-law, to regulate and/or limit the use of ARUs for short-term tourist accommodation, to some degree.

- To support the creation of affordable units, some municipalities (including the Municipality of Meaford) have included an Affordable Housing Loan Program within their Community Improvement Plan. This program offers funds to eligible property owners to create new residential units, with the caveat that the property owner enters into an agreement such that any constructed unit would be held as affordable for a period of not less than 10 years. In future updates to the CIP, the City may wish to contemplate implementation of a similar program. For more information, please see Page 29 of the Meaford CIP: <https://www.meaford.ca/en/business-development/community-improvement-plan-update.aspx>

In response to comments from the County of Grey, the proposed Zoning By-law has been updated to include wording which requires direct access from the ARUs dedicated parking space or the street. No amendments are proposed to the Converted Dwelling provisions of the zoning by-law as this type of unit is no longer permitted, and the provisions for Converted Dwellings only apply to units which existed on the effective date of the by-law. A reduced parking limit was considered, but based on a review of other Ontario municipalities, it was determined that a minimum of 1 parking space per ARU is appropriate at this time. The City will reevaluate this requirement in future as the transit system continues to evolve. A more detailed discussion related to the review of ARU parking requirements across Ontario is provided in the "Council Comments" section below. It should be noted that in site specific situations, property owners could request a minor variance to permit a reduced parking rate if they can demonstrate that the proposed ARU does not require a dedicated parking space.

The City will be reviewing Short Term Rental licensing and will bring forward a Zoning By-law Amendment and licensing By-law in 2023 to regulate Short Term Rentals. The By-law and licensing will review provisions for regulating the operation of Short Term Rentals in ARUs. Improvements to the City's CIP will be reviewed in a future staff report regarding Tools for Affordable Housing. The Tools for Affordable Housing staff report will consider implementing an Affordable Housing Loan Program within the City's Community Improvement Plan to help property owners create new affordable residential units including ARUs.

### **Public Comments**

One person spoke at the public meeting on January 16, 2023.

The resident questioned if ARUs would be permitted to operate as Short Term Rentals.

The City will be reviewing Short Term Rental licensing and will bring forward a Zoning By-law Amendment and licensing By-law in 2023 to regulate Short Term Rentals. The By-law and licensing will review provisions for regulating the operation of Short-Term Rentals in ARUs.

### **Council Comments**

Questions were received from members of Council at the Public Meeting on January 16, 2023. The following is a summary of the Council questions:

How is “adequate servicing” considered in the context of the zoning by-law amendment.

- The provision of “adequate servicing” for ARUs relates to the provision of water and wastewater infrastructure to support the ARU. The proposed Zoning By-law amendment notes, *“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;”*. This requirement will be confirmed at the building permit phase. Most properties in the City are on municipal servicing, and this would constitute “adequate servicing”.

What is the impact on taxes?

- Taxes are charged in accordance with MPAC assessments. ARUs will be required to follow the standard building permit process, and MPAC will reassess the property value when a new building permit is issued.

Are other municipalities requiring less than one parking space per unit?

- A review of other municipal ARU Policies was conducted, including Saugeen Shores, Kitchener, Cambridge, Guelph, Barrie, Gravenhurst, Kingston, Midland, Toronto, Ottawa, and Cambridge.
- The majority of Ontario municipalities reviewed require one parking space per ARU and allow the parking space to be permitted though tandem parking. There was a municipality that considered waving the requirement for parking spaces where the unit was within 800 metres of a major transit station, but this ultimately was not included as the major transit infrastructure had not been established. The City of Peterborough requires one parking space per ARU and permits tandem

parking but does not require parking for ARUs located in the City’s core. The cities of Toronto and Ottawa waive parking requirements for additional residential units. It should be noted that none of these municipalities appear to have updated their zoning by-law policies related to ARUs since Bill 23 was approved by the Province.

- Based on the assessment above, it appears that other municipalities have considered and implemented parking rates less than one space per ARU, but these parking rates are applied in municipalities with robust transit infrastructure and/or in specific areas of the municipality with access to higher order transit and high walkability. Based on the City of Owen Sound’s current transit system, we are recommending that the City require one parking space per additional residential unit, which can be provided as a tandem space. Planning staff will continue to monitor transit improvements and consider reducing parking requirements for ARUs in the future.

Is the legislation from the Province is prescriptive?

- Section 35.1 of the *Planning Act* states that authority of the council of local municipalities to pass zoning by-laws “does not include authority to pass a by-law that prohibits the use of” additional residential units in various forms. As such, the legislation is prescriptive.

**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
February 13, 2023	Passing of amending by-law and Notice of Decision.

**Financial Implications**

The budgetary implications of the proposed Zoning By-law Amendment are minimal. The process will incur minimal administrative fees from processing building permit applications, but these costs will largely be covered by permit fees. In accordance with the *Development Charges Act* and the City’s [Development Charges By-law \(2020-112\)](#), all ARUs will be exempt from payment of development charges upon issuance of a building permit.

## **Communication Strategy:**

A Notice of Complete Application and Public Meeting was provided in the Owen Sound Sun Times and posted on the City's website on December 16, 2022 for the January 16<sup>th</sup> public meeting.

The Public Meeting was held on January 16, 2023, and comments were received from members of the public and council. No additional comments were received after the Public Meeting.

## **Consultation:**

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

Comments received from the City's Development Team and external commenting agencies were considered as part of this report.

## **Attachments:**

Schedule 'A': Draft Zoning By-law Amendment

Schedule 'B': Agency Comments

## **Recommended by:**

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

Aleah Clarke, BES, 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, Manager of Planning & Heritage, at [srobart@owensound.ca](mailto:srobart@owensound.ca) or 519 376 4440 ext. 1236.