Executive Summary:

The following is a Public Meeting report to the Planning Committee regarding City-initiated applications for Official Plan and zoning by-law amendments. The purpose of the proposed amendments is to implement Provincial legislation and policies through broadening second residential unit permissions across the City and to introduce policies that will ensure new residential units in specific areas of potential or known servicing constraint are evaluated on the basis of the City’s overall ability to support such units while protecting the public interest. A second residential unit consists of a separate dwelling unit, which is accessory to a principal dwelling unit and includes a separate kitchen, washroom and living space. Second residential units can be located within a dwelling or in an accessory structure that contains a principal dwelling on the lot. This report describes the proposed City-initiated applications and includes an overview of the relevant policies and regulations that will be evaluated as part of a future comprehensive report.

The current Official Plan policies permit second residential units within single-detached, semi-detached, linked and row house dwellings as well as in accessory structures in all locations across the City where these housing forms are a permitted use in the zoning by-law. The policies also address other relevant considerations such as natural hazards, servicing constraints and density. The proposed Official Plan amendment is intended to clarify that
second residential units within single-detached, semi-detached, linked and row house dwellings and in accessory structures are permitted in the Prime Agricultural Area, Hamlet and Rural Lands designations, as well as to include an additional policy specifying that second residential units in accessory structures cannot be severed from the lot containing the principal dwelling.

As servicing constraints are not only limited to second residential units, staff are proposing to incorporate a new policy in section 4.2 Municipal Water and Sewage to also make reference to Schedule 11-C – Servicing Constraints and require the proponent of residential units proposed through a Planning Act application to demonstrate protection of public health and safety and adequate water and wastewater. Furthermore, Schedule 11-C – Servicing Constraints is proposed to be amended to specifically indicate whether known or potential servicing constraint areas have been identified for the purposes of addressing sewer surcharging, combined storm and sewer systems (sewer surcharging and capacity limitations), or other factors which may encumber the City’s ability to support a second residential unit or any other type of residential intensification (i.e. new unit creation) proposed through a Planning Act application.

The zoning by-law amendments are intended to implement the updated second residential unit policies that were included in the five-year review of the Official Plan (2017). The updated policies were intended to reduce a number of the restrictive policies pertaining to second residential units and to also permit second residential units within accessory structures. The zoning by-law amendment application is proposed to amend the City of Kingston Restricted Area Zoning By-Law Number 8499, Downtown and Harbour Restricted Area Zoning By-Law Number 96-259, Cataraqui North Zoning By-Law Number 97-102, Kingston Township Restricted Zoning By-Law Number 76-26 and Pittsburgh Township Restricted Area Zoning By-Law Number 32-74, to permit second residential units within single-detached, semi-detached, linked and row house dwellings and in accessory structures. Appropriate zone provisions to regulate the establishment of second residential units and a corresponding map to address servicing constraints are also being proposed in the five zoning by-laws. A Holding ‘H’ Symbol is proposed in specific areas of the City, as illustrated in a schedule to the amending by-laws, to ensure any proposed second residential unit can be evaluated in the context of known or potential servicing constraints; this schedule will largely replicate Schedule 11-C – Servicing Constraints to the Official Plan. The zone provisions are also proposed to prohibit a second residential unit in basements where there is known sewer surcharging, as well as to prohibit second residential units in specific servicing constraint areas due to a lack of sanitary sewer capacity.

A specific amendment to Zoning By-Law Number 8499 is also proposed to remove a current provision that prohibits the use of a cellar as a dwelling unit or as a habitation unit, with the exception of second residential units that are proposed in specifically identified servicing constraint areas.

A project webpage and survey is currently being finalized in order to inform the public of the project and to receive input on the proposed zoning and Official Plan amendments. Consultation will also be ongoing with the Province, external agencies and internal City departments. All comments received will be considered in the preparation of the final proposed amendments and
the finalization of a recommendation, which will be brought forward to the Planning Committee in a future Comprehensive Report.
Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER
Lanie Hurdle, Commissioner, Community Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER
Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Jim Keech, President & CEO, Utilities Kingston
Desirée Kennedy, Chief Financial Officer & City Treasurer Not required
Denis Leger, Commissioner, Corporate & Emergency Services Not required
Options/Discussion:

Public Meeting Process
Anyone who attends a Planning Committee Public Meeting may present an oral submission, and/or provide a written submission on the proposed applications. Also, any person may make written submissions at any time before City Council makes a decision on the applications.

In accordance with Section 17(24.1) and Section 34(19.1) of the Planning Act, Official Plan policies that implement the second residential unit requirements of the Planning Act and any by-laws that give effect to these policies may only be appealed by the Minister. As the proposed amendments to the Official Plan and zoning by-laws primarily address second residential units, they are unable to be appealed by the public. However, there are accompanying amendments to these applications that are not solely applicable to second residential units and would therefore not be exempt from public appeal to the Local Planning Appeal Tribunal (LPAT). This consists of the proposed amendment to the Official Plan to include a new policy in Section 4.12 that addresses residential units proposed through Planning Act applications and the associated amendments to Schedule 11-C – Servicing Constraints to identify reasons for constraints. In addition, an amendment to Zoning By-Law Number 8499 to remove the existing zone provision that prohibits the use of a cellar as a dwelling unit or as a habitation unit could also be appealed to the LPAT by the public, with the exception of allowing the use of a cellar for the purposes of a second residential unit.

If a person or public body would otherwise have an ability to appeal the decision of the Council of the Corporation of the City of Kingston to the LPAT, but the person or public body does not make oral submissions at a Public Meeting or make written submissions to the City of Kingston before the proposed Official Plan amendment is adopted or by-law is passed, the person or public body is not entitled to appeal the decision. If a person or public body does not make oral submissions at a Public Meeting, or make written submissions to the City of Kingston before the proposed Official Plan amendment is adopted or by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the LPAT unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

The Planning Committee will consider a comprehensive report and recommendation from the Planning Division, respecting the subject applications, at a future meeting. The public is provided an additional opportunity to make oral submissions on the matter at the time the Committee considers the comprehensive report from staff. The Committee will make its recommendation to City Council at that meeting.

All persons who made oral or written submissions, or have requested notification in writing, will be given written notice of the future meeting(s) of the Planning Committee at which time the subject applications will be considered. Anyone wishing to be notified of Council’s decision on the subject applications must submit a written request to:
Background

Second residential units are an important tool in contributing to the supply of affordable housing, and as a result, the Ministry of Municipal Affairs (MMA) has been working with municipalities across Ontario to ensure that “as-of-right” permissions to establish second residential units are created. The MMA refers to “as-of-right” permissions as the ability to apply for a Building Permit without having to make a development application (i.e. an Official Plan or zoning by-law amendment, a minor variance or a site plan). It has also been relayed to municipalities that homeowners generally should not need to produce any type of study to demonstrate that they conform to any policy or zoning provisions. However, the MMA has acknowledged that there may be circumstances where second residential units may not be appropriate given other planning considerations and policies, particularly relating to health and safety or the natural environment.

The MMA has been actively promoting the benefits of second residential units, including the following:

- Increasing the stock of affordable rental accommodation in an area;
- Providing homeowners with an opportunity to earn additional income to help meet the costs of home ownership;
- Support changing demographics by providing more housing options for extended families or elderly parents, or for a live-in caregiver;
- Maximize densities and help create income-integrated communities, which support and enhance public transit, local businesses and the local labour markets, as well as make more efficient use of infrastructure; and
- Create jobs in the construction/renovation industry.

In 2011, the Provincial government adopted legislation under the *Strong Communities through Affordable Housing Act, 2011* (Bill 140), which amended the *Planning Act* to regulate that municipalities authorize second residential units in their Official Plans and zoning by-laws. More specifically, the amendments to the *Planning Act* included:

a) Requiring municipalities to establish Official Plan policies and zoning by-law provisions allowing second units in detached, semi-detached and row houses, as well as in ancillary structures;

b) Removing the ability to appeal the establishment of these Official Plan policies and zoning by-law provisions except where such Official Plan policies are included in five-year updates of municipal Official Plans; and
c) Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second residential units.

In 2012, the City-initiated amendments to the Official Plan and to zoning by-law Numbers 97-102, 76-26 and 32-74, in order to comply with the above noted changes to the Planning Act. In 2013, Official Plan policies were implemented that permitted second residential units within single detached dwellings, semi-detached dwellings, linked and row houses subject to a number of criteria. Zoning by-law amendments also came into effect to permit second residential units as a pilot project in defined areas within single, semi-detached and row house dwellings in Zoning By-Law Numbers 97-102, 32-74 and 76-26. The current zone provisions regulating second residential units in the above noted zoning by-laws are included as Exhibit A. For lands situated outside the urban boundary, a Holding ‘H’ Symbol was applied. The ‘H’ Symbol was utilized to ensure that:

- Those items identified as a provincial interest in Section 2 of the Planning Act are satisfied;
- Appropriate studies are obtained to address any identified issues or concerns, such as water quantity, quality and impact on abutting properties;
- Ensure adequate private sewage capacity; and
- Ensure the second residential unit is not in a floodplain.

The lands included in the current pilot project area that permit second residential units with and without an ‘H’ symbol are included as Exhibit B.

On July 1, 2016, changes to the Planning Act were put into place through The Smart Growth for our Communities Act, 2015 (Bill 73). These changes removed the ability for appeals of second unit Official Plan policies that are included in five-year updates to the Official Plan, with the exception of the Minister. An exemption was also put in place to provide clarity that the corresponding zoning by-law amendment brought into place by Council also cannot be appealed by the public. The removal of appeal rights was intended to provide municipalities with increased ability to establish second residential units and to support municipalities in their affordable housing initiatives by providing increased municipal control over second unit policies and standards. Further encouragement of second residential units from the Province stemmed from the Promoting Affordable Housing Act, 2016, which proposes to amend the Development Charges Act, 1997 to exempt second residential units in new dwellings from development charges in the same manner as second residential units in existing dwellings.

It should also be noted that the Province posted notice of a proposed regulation under Section 35.1(2)(b) of the Planning Act in April 2017, to set out requirements and standards with respect to second residential units referred to in Section 16(3) of the Planning Act. The purpose of the regulation is to further facilitate the implementation and creation of second residential units. The proposed regulations are as follows:

- A maximum of one parking space would be required for a second residential unit, where second residential units are permitted, which includes tandem parking, which would be defined as a parking space that is only accessed by passing through another parking space from a street, lane or driveway;
A second residential unit, where permitted in the zoning by-law, may be occupied by any person in accordance with Section 35(2) of the Planning Act, and, for greater clarity, regardless of whether the primary unit is occupied by the owner of the property; and

A second residential unit, where permitted in the zoning by-law, would be permitted without regard to the date of construction of the primary building.

The proposed regulations would prevent municipalities from requiring more than one parking space for a second residential unit and when one parking space is required, it may be provided in front of another parking space. Municipalities are also prevented from establishing any zone provisions that would require the owner of the principal dwelling to live in either the principal unit or the second unit. The regulations would also require municipalities to permit second residential units on lots that contain an existing dwelling and on lots with proposed new dwellings.

On August 29, 2017, the City’s Comprehensive Update to the Official Plan (Official Plan Amendment Number 50) came into effect, with the exception of matters appealed to the Ontario Municipal Board (now the LPAT). Second residential unit policies were updated in the Official Plan to authorize the use of second residential units within ancillary structures and to remove a number of the restrictive policies surrounding second residential units.

The City’s five principal zoning by-laws are currently not in conformity with the updated Official Plan policies as Zoning By-Law Number 8499 and 96-259 do not permit second residential units within dwellings or in accessory structures. Second residential units are permitted in Zoning By-Law Numbers 97-102, 76-26 and 32-74; however, they are only permitted in select areas within dwellings and utilize size restrictions that are not supported by the Province.

Staff have conducted a detailed review of other municipal best practices in preparation of developing proposed amendments (Exhibit C - Municipal Comparison Chart). During the review of best practices and the City’s current provisions, it was determined that amendments to the Official Plan were also required to further address second residential units and to provide clarification with respect to the servicing constraint policies and associated schedule.

In terms of consultation, staff have had several discussions with the MMA in regards to the creation of the proposed amendments, as well as with the City’s Engineering Services Department, Housing & Social Services, Kingston Fire and Rescue and Utilities Kingston. Staff also presented the proposed amendments to the Planning Advisory Working Group on June 4, 2018 to receive input. A project website and survey are also currently being finalized to obtain public feedback. All comments received through public consultation and the technical review process will be considered prior to bringing forth a comprehensive report to the Planning Committee.

Application Submission
This report provides information on a proposed Official Plan amendment and amendments to Zoning By-Law Numbers 8499, 96-259, 97-102, 76-26 and 32-74.

All submission materials are available online through the Development and Services Hub (DASH) at the following link, DASH, using “Look-up a Specific Address”. If there are multiple
addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Existing Site Characteristics**
The zoning by-law amendments and Official Plan amendment are to be applied City-wide. As such, a key map is not provided with this report.

**Provincial Policy Statement**
The Provincial Policy Statement (2014) provides policy direction on matters of provincial interest related to land use planning and development, which are intended to be complemented by local policies addressing local interests.

Policy 1.1.1 (a) and (b) of the Provincial Policy Statement (2014) promotes efficient development and land use patterns and speaks to accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons) to meet long-term needs. Section 1.4.3 (b) (2) also requires planning authorities to permit and facilitate all forms of residential intensification, including second units, and redevelopment in accordance with policy 1.1.3.3.

Policy 1.1.3.3 states that planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable and existing or planned infrastructure and public service facilities required to accommodate projected needs.

The proposed amendments will result in broader permissions for second residential units with the intent to encourage the supply of these units. An increased supply will provide for an increased affordable housing alternative that will make efficient use of existing land and infrastructure in the municipality.

Section 1.1.1 (c) addresses the avoidance of development and land use patterns which may cause environmental or public health and safety concerns. Section 3.1.1 also directs development to areas outside of hazardous lands. The proposed amendments are intended to implement this policy direction through establishing zone regulations that address emergency service access, flooding hazards, sewer surcharging and water supply constraints.

Policy 1.1.4.1 states that healthy, integrated and viable rural areas should be supported by accommodating an appropriate range and mix of housing in the rural settlement areas and encouraging the conservation and redevelopment of the existing rural housing stock. Policy 1.1.5.4 states that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

The above noted policies were considered in the preparation of amendments that would be applicable to Rural Areas in the municipality. More specifically, the amendments are intended to preserve rural character, protect prime agricultural land and to ensure that adequate private services are available to support a second residential unit.
Policies 1.6.6.1 and 1.6.6.4 address planning for sewage and water services and more specifically speak to ensuring these systems are provided in a manner than can be sustained by the water resources which services rely, is feasible, financially viable and complies with all regulatory requirements and protects human health and the natural environment. Section 1.6.6.4 requires individual on-site sewage and water services to have suitable site conditions for the long-term provision of such services with no negative impacts.

The proposed amendments are specifically addressing servicing constraints in the municipality to ensure proposed second residential units can be supported through adequate individual or municipal water and wastewater services while also protecting public health and safety.

The proposed amendments are consistent with the Provincial Policy Statement and will be further detailed as part of the future comprehensive report.

**Official Plan Considerations**

Section 3.3.11 of the Official Plan permits second residential units within single detached dwellings, semi-detached dwellings, linked and row houses. Section 3.3.11 also guides the development of second units through the following policies:

3.3.11. Second residential units are permitted within single-detached dwellings, semi-detached dwellings, linked and row houses, as well as accessory buildings where a second residential unit does not already exist in the primary detached, semi-detached, linked or row house dwelling, provided they are in accordance with the zoning by-law and subject to the following criteria:

a. The zoning by-law shall identify locations where second residential units are permitted, being all areas that permit single-detached dwellings, semi-detached dwellings, and linked and row houses;

b. Notwithstanding subsection 3.3.11.a. above, in areas shown as “Known Servicing Constraint” and “Potential Servicing Constraint” on Schedule 11-C to this Plan, second residential units may only be permitted where it has been demonstrated that there is adequate water and wastewater to support the second residential unit.

The City will evaluate opportunities to reduce or remove known or potential servicing constraint areas on Schedule 11-C, based upon a review of servicing capacities and other applicable land use planning matters. Changes to Schedule 11-C which have the effect of reducing or removing servicing constraint areas will not require an amendment to this Plan;

c. Second residential units shall not be limited by density control requirements, as defined in an implementing zoning by-law;

d. Second dwelling residential units may be a prohibited use on a residential dwelling lot containing a garden suite, boarding house or lodging house, as defined in an implementing zoning by-law; and
e. Second residential units shall not be permitted in a residential dwelling unit situated within a floodplain.

Affordable housing is one of the Principles of Growth specified in Section 2.3 of the Official Plan. Section 2.3.17 states that the City supports the City of Kingston and County of Frontenac Municipal Housing Strategy (2011) and the City of Kingston 10-Year Municipal Housing and Homelessness Plan (2013) in order to increase affordable housing in the City, and for it to be located primarily within the Urban Boundary in accordance with the directions of the Municipal Housing Strategy Locational Analysis Study (2012).

The City of Kingston and County of Frontenac Municipal Housing Strategy (2011) directs the City to create a complementary regulatory framework by supporting second residential units as an affordable rental housing alternative, such as by developing and implementing as-of-right zoning provisions in applicable residential zones. In addition, one of the goals identified in the City of Kingston 10-Year Municipal Housing and Homelessness Plan (2013) is that the City and Council continue their support for second residential units as an affordable rental housing alternative by undertaking a study to assess the potential to broaden the pilot project area to include as-of-right permissions within additional areas of the City where servicing concerns are addressed. In accordance with applicable legislation, the study should also evaluate and recommend zoning provisions for accommodating secondary suites within accessory buildings (i.e. above a detached garage, within a separate building on a residential lot occupied by a primary dwelling). The recommendations and appropriate zone provisions were recommended to be implemented through the New City-wide Zoning By-Law (New ZBL). The proposed amendments are being advanced prior to the New ZBL to avoid delays in providing an important affordable housing alternative and rental supply opportunity in the municipality.

As previously noted, City staff have conducted a detailed review of municipal approaches to regulating second residential units by way of specific Official Plan policies and zone provisions. Staff have also consulted with the Ministry of Municipal Affairs and Housing, the Planning Advisory Working Group and applicable City departments. Discussions were also held with other municipalities that contain as-of-right zone provisions for second units within accessory structures in order to assist in forming appropriate as-of-right permissions in the City of Kingston.

In developing the proposed zoning by-law and Official Plan amendments, a number of Official Plan policies were considered, including the following:

Section 2.3.12 outlines the Principles of Growth for the City. This section states that the City will continue to support compatible forms of intensification so as to efficiently use infrastructure, minimize land consumption, support the use of public transit, reduce air and other forms of pollution, and thus foster sustainable growth in the City.

The growth principles for the Rural Areas are to balance the resource protection objectives for agriculture, aggregates and minerals with the environmental objectives of the natural heritage
features and areas and watershed management and the social objectives of protecting rural communities and the rural way of life.

Section 2.7 of the Official Plan addresses land use compatibility principles with the goal to provide new opportunities for growth and investment within Kingston in a manner that ensures compatible development and land use.

Section 2.7.2 states that the demonstration of compatible development and land use change must consider the potential for adverse effects and matters that have the potential to negatively impact the character, planned function and/or ecological integrity of an area, and the health and safety of humans. Where there exists a potential for negative impacts, a land use compatibility study, focused specifically on the identified land use compatibility matters, will be required.

The land use compatibility matters to be considered under Section 2.7.2, include, but are not limited to:

a. Shadowing;

b. Loss of privacy due to intrusive overlook;

c. Increased levels of light pollution, noise, odour, dust or vibration;

d. Increased and uncomfortable wind speed;

e. Increased level of traffic that can disrupt the intended function or amenity of a use or area or cause a decrease in the functionality of active transportation or transit;

f. Environmental damage or degradation;

g. Diminished service levels because social or physical infrastructure necessary to support a use or area are overloaded;

h. Reduction in the ability to enjoy a property, or the normal amenity associated with it, including safety and access, outdoor areas, heritage or setting;

i. Visual intrusion that disrupts the streetscape or buildings;

j. Degradation of cultural heritage resources;

k. Architectural incompatibility in terms of scale, style, massing and colour; or

l. The loss or impairment of significant views of cultural heritage resources and natural features and areas to residents.

Section 3.3.10 provides policies with respect to affordable housing. This section states that affordable housing initiatives are designed to provide a full range of housing in terms of tenure, affordability, accessibility and locations in different urban residential neighbourhoods, to
increase choice for low and moderate income households. One such initiative is identified in Section 3.3.10(k), which is to promote the use of second residential units as affordable housing.

Section 4.4 is applicable to the Rural Area and addresses individual on-site services. This section states that development beyond the urban boundary and outside the future development areas will be primarily based on private wells and private septic systems, referred to as individual on-site water and sewage services, and will only be permitted if conditions are adequate to support such systems for the long-term with no negative impacts. This section proceeds to address groundwater constraints and outlines that the City may request that a hydrogeological study be undertaken in any location.

Section 5 addresses the Protection of Health and Safety with a goal to manage natural and human-made hazards in a manner that protects human life and health, avoids adverse effects on living areas and sensitive uses, and avoids, minimizes or buffers sources of pollution so that the quality of life in Kingston will be improved and sustained over the long-term. Natural hazard policies were also considered, specifically Section 5.5, which states that new development and site alteration in the regulatory floodplain is prohibited, except those uses that by their nature must be located within the regulatory floodplain.

**Proposed Official Plan Amendment**
The current Official Plan policies were intended to permit second residential units within dwellings and in accessory structures across the City; however, the policies in the Rural Lands, Prime Agricultural Area and Hamlet sections of the Official Plan do not currently reflect this.

Section 3.12.15 of the Official Plan states that where the appropriate environmental approvals for individual on-site water and sewage services are obtained, a residential unit as an ancillary use within an existing single-detached dwelling is permitted in Rural Lands, subject to the applicable zoning by-law, or a garden suite is permitted in Rural Lands, subject to the policies of Section 3.3.D.7 and Section 9.5.20 of this Plan.

In order to apply the intent of permitted second residential units in all zones that permit single, semi-detached, linked and row houses within dwellings or in accessory structures, section 3.12.15 is proposed to be amended to read as follows:

3.12.15 – Where the applicable environmental approvals for individual on-site water and sewage services are obtained, a second residential unit is permitted subject to the second residential unit policies in section 3.3.11, or a garden suite is permitted in Rural Lands, subject to the policies of Section 3.3.D.17 and Section 9.5.20 of this Plan.

Section 3.13 addresses policies related to Hamlets. Section 3.13.3 states that where appropriate environmental approvals for individual on-site water and sewage services are obtained, a residential unit as an accessory use or a garden suite may be permitted in a Hamlet, subject to an amendment to the zoning by-law. This policy is proposed to be amended to read as follows:
Section 3.13.3 – Where appropriate environmental approvals for individual on-site water and sewage services are obtained, a second residential unit is permitted in a Hamlet subject to the second residential unit policies in Section 3.3.11 of this Plan or a garden suite may be permitted in a Hamlet subject to the policies of 3.3.D.7 and Section 9.5.20.

A new policy is also proposed to be included in Section 3.11 Prime Agricultural Area to read as follows:

Section 3.11 – Where appropriate environmental approvals for individual on-site water and sewage services are obtained, a second residential unit is permitted in the Prime Agricultural Area subject to the second residential unit policies in Section 3.3.11 of this Plan.

In order to adequately address second units within accessory structures, a new policy is proposed to be included in the second residential unit policies in Section 3.3.11 that is proposed to read as follows:

Section 3.3.11(f) – A second residential unit within an accessory structure may not be severed from the lot containing the principal dwelling.

The addition of this policy will ensure that the intent of providing an affordable housing opportunity to permit a second residential unit in an accessory structure is maintained. The policy will also support the protection of agricultural land and help to maintain the rural character of Rural Lands.

Schedule 11-C Servicing Constraints identifies areas in the municipality with known or potential servicing constraints. Section 3.3.11(b) of the Official Plan states that notwithstanding subsection 3.3.11.a. above, in areas shown as “Known Servicing Constraint” and “Potential Servicing Constraint” on Schedule 11-C to this Plan, second residential units may only be permitted where it has been demonstrated that there is adequate water and wastewater to support the second residential unit.

In order to provide a more comprehensive understanding of the servicing constraint areas, Schedule 11-C is proposed to be amended to specifically identify the known and potential servicing constraints (Exhibit F). The amended Schedule would indicate whether a particular area is constrained due to sewer surcharging, combined sanitary and storm sewers (lack of capacity and sewer surcharging) or other capacity limitations. Identifying the constraints will provide the context required to understand what may be needed to demonstrate the adequacy of water and wastewater capacity needed to support the second residential unit and where second residential units should be prohibited to ensure the protection of public health and safety.

Furthermore, the current Official Plan only addresses Schedule 11-C Servicing Constraints with respect to second residential units; however, these constraints may be applicable to other forms of residential development. As a result, a new policy is proposed to be included in Section 4.2 Municipal Water and Sewage to read as follows:
In areas shown as "Known Servicing Constraint" and "Potential Servicing Constraint" on Schedule 11-C to this Plan, new residential units proposed through a Planning Act application may only be permitted where it has been demonstrated that there is adequate water and wastewater and that public health and safety will be protected.

The demonstration of adequate servicing currently occurs during the review of Planning Act applications; however, the intent of this proposed policy is to now provide a specific reference to those areas subject to constraints. Those areas subject to sewer surcharging have been identified in Schedule 11-C to identify where the protection of public health and safety will need to be maintained.

The amendment will also specifically speak to the technical documentation required to lift the Holding 'H' Symbol for second residential units. More specifically, in the rural estate subdivisions and Hamlets, a long-term pump test and letter of opinion from a qualified professional is required to ensure that the private water supply is sufficient to support the second unit. In the CANA Wellhead Protection Area, a letter of opinion from a qualified professional is required to the satisfaction of Utilities Kingston to confirm that the second unit will not result in capacity issues.

Proposed Regulations for Zoning By-Law Numbers 8499, 96-259, 97-102, 76-26 and 32-74

The following matrix identifies the proposed zone provisions recommended by staff with an accompanying rationale.

<table>
<thead>
<tr>
<th>Number</th>
<th>Recommended Zone Provision</th>
<th>Rationale</th>
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<tbody>
<tr>
<td>1</td>
<td>Definition</td>
<td>Included definition to provide clarity as to what constitutes a second residential unit.</td>
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<tr>
<td></td>
<td>Second Residential Unit: means a separate dwelling unit, which is ancillary to a principal residential dwelling unit and includes a separate kitchen, washroom and living space.</td>
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<td>2</td>
<td>Parking</td>
<td>To ensure there is adequate off-street parking in all zones to accommodate a second residential unit in order to avoid any negative impacts to on-street parking.</td>
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<td>Second residential unit – 1 parking space per dwelling unit.</td>
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<td>3</td>
<td>Permitted Zones</td>
<td>Section 35.1(1) and 16(3) of the Planning Act requires municipalities to authorize second residential units in their Official Plans and Zoning By-Laws. This provision is also consistent with 3.3.11(a) in the Official Plan.</td>
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<td>(a) A second residential unit shall be permitted in association with the following permitted principal uses in any zone:</td>
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<tr>
<td></td>
<td>i. Single Detached Dwelling Unit</td>
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<tr>
<td>Number</td>
<td>Recommended Zone Provision</td>
<td>Rationale</td>
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<td>ii.</td>
<td>Semi-Detached Dwelling Unit</td>
<td>This provision is intended to implement Official Plan policy Section 3.3.11 that requires adequate servicing to be demonstrated for second residential units proposed on lands identified as having a known or potential servicing constraint. This mapped area is expected to be reduced over time based on a review of capacities and as infrastructure improvements are implemented.</td>
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<td>iii.</td>
<td>Linked Dwelling Unit</td>
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<td>iv.</td>
<td>Row-Housing Dwelling Unit</td>
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<tr>
<td>4</td>
<td>Permitted Zones</td>
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<tr>
<td>(b)</td>
<td>The lands identified in Schedule X, Map X, of this by-law as having a Holding ‘H’ Symbol for the purposes of introducing a second residential unit shall be required to satisfy conditions to address the applicable servicing constraint as identified on Schedule X, Map X and remove the ‘H’ symbol prior to obtaining a Building Permit. The conditions to be satisfied are as follows:</td>
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<td>Constraint Area 1 (H1) – A long-term pump test is required to examine drawn down and interference to ensure the long-term supply of water. A letter of opinion from a qualified engineer is to be submitted stating that the private water supply is sufficient to support the second unit.</td>
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<td>Constraint Area 2 (H2) – Cana Wellhead Protection Area – letter of opinion to the satisfaction of Utilities Kingston from a qualified professional confirming the nature of the proposal is such that capacity issues will not be experienced.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Permitted Zones</td>
<td>The areas identified as ‘Constraint Area 3’ are known to contain sewer surcharging issues that result in an increased risk of basement flooding. In order to protect public health and safety, it would not be appropriate to risk displacement of residents due to the incidences of basement flooding.</td>
</tr>
<tr>
<td>(c)</td>
<td>The lands identified as ‘Constraint Area 3’ in Schedule X, Map X, of this by-law shall not permit a second residential unit in the cellar or basement.</td>
<td></td>
</tr>
<tr>
<td>Number</td>
<td>Recommended Zone Provision</td>
<td>Rationale</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>6</td>
<td>Permitted Zones</td>
<td>The areas identified as ‘Constraint Area 4’ contain known sewage capacity limitations. The sewage capacity is currently not available to support second residential units in these areas. This mapped area is expected to be reduced over time based on infrastructure improvements that are implemented.</td>
</tr>
<tr>
<td>7</td>
<td>Permitted Zones</td>
<td>Allowing multiple residential uses on a single lot could result in issues affecting parking, compatibility, amenity space and servicing constraints. An Official Plan and zoning by-law amendment would be required to permit a second residential unit on a lot with an existing garden suite, boarding house, lodging house or two principal dwelling units.</td>
</tr>
<tr>
<td>8</td>
<td>Permitted Zones</td>
<td>Provision is to ensure adequate servicing of second residential units.</td>
</tr>
<tr>
<td>9</td>
<td>Permitted Zones</td>
<td>This provision is intended to prohibit second residential units in areas of natural hazards where there is unacceptable risk to public health or safety or of property damage. The Provincial Policy Statement and Official Plan also require development to be directed away from natural hazards.</td>
</tr>
<tr>
<td>Number</td>
<td>Recommended Zone Provision</td>
<td>Rationale</td>
</tr>
<tr>
<td>--------</td>
<td>---------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>10</td>
<td>Density</td>
<td>Complies with Section 35.1(1) and 16(3) of the <em>Planning Act</em>. The construction of a second residential unit is not intended to provide for multiple units on one lot. This provision will assist in ensuring adequate amenity spaces and land use compatibility, and will limit demand on municipal servicing.</td>
</tr>
<tr>
<td></td>
<td>(a) A maximum of one Second Residential Unit is permitted per lot.</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Density</td>
<td>Provision included to encourage intensification. If included in density calculation, second residential units may not be permitted if they exceed the density calculation. Given the scale of a second residential unit they are to be excluded from density calculations.</td>
</tr>
<tr>
<td></td>
<td>(b) Where this by-law calculates density as a measure of dwelling units per net hectare, a Second Residential Unit shall be exempt from this calculation.</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Parking</td>
<td>Tandem parking provides flexibility to residents who wish to develop a second residential unit but may not otherwise be able to accommodate the required parking space on that lot.</td>
</tr>
<tr>
<td></td>
<td>Tandem parking spaces shall be permitted to facilitate a second residential unit. The parking space location for the second residential units shall meet all other applicable provisions of this by-law.</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Access</td>
<td>Provision included to provide opportunities for those lots that may not be able to accommodate a separate entrance at the side or rear of the property. The Province has advised that requirements for entrances or means of egress for second units are set by the Ontario Building Code and Ontario Fire Code (which need to be referred to for specific standards). In general, second units can share a joint entrance with the primary unit, subject to having a fire separation with appropriate fire resistance rating, and at least two means of egress (exit) that may include windows of any appropriate size.</td>
</tr>
<tr>
<td></td>
<td>(a) Where a second residential unit is attached to the principal dwelling unit, the second residential unit may have a separate entrance or share a joint entrance vestibule with the principal dwelling unit.</td>
<td></td>
</tr>
</tbody>
</table>
## Number 14: Access

### (b) The exterior entrance to the second residential unit shall be accessed by a minimum 1.2 metre wide unobstructed walkway provided from the front of the principal dwelling unit building.

A required walkway is proposed to provide adequate access for emergency services and residents to access the second residential unit. Kingston Fire and Rescue confirmed that a 1.2 metre width is sufficient for emergency services.

### (c) Where no vehicular access is provided to the second residential unit, the maximum length of the pathway in (b) above shall be 40 metres.

Kingston Fire and Rescue requested maximum walkway length if the walkway provides the sole access to the second residential unit. In situations where it is not possible to drive emergency vehicles to the second residential unit, a shorter walkway can aid in emergency response time by allowing for better emergency access.

### (d) No person may park a vehicle on any part of a walkway under this subsection.

The purpose of the walkway is to provide adequate access for emergency services. If obstructed by a parked vehicle, for example, emergency services may not be able to reach the second residential unit in the case of an emergency.

## Number 17: Floor Area Requirements

The gross floor area of the second residential unit must be less than the gross floor area of the principal dwelling unit.

The intent of this provision is to reduce restrictions on-site requirements (current provisions in By-Law Numbers 32-74, 76-26 and 97-102 all require the second residential unit to be 40% of the gross floor area of the principal dwelling) as it is understood that the size should be primarily regulated in the Building Code. The Province has provided direction that municipal by-laws should not seek to impose size or
other standards that are regulated by the Building Code. The *Development Charges Act, 1997* states that in order for second residential units in existing homes to be exempt from development charges, they must be less than or equal to the size of the primary dwelling. The Province has advised that this is the only potential size standard a municipality should contemplate including in a by-law. In order to ensure the unit is ancillary to the principal dwelling, a provision is proposed to be included that states the second residential unit must be less in size than the principal dwelling.

<table>
<thead>
<tr>
<th>Number</th>
<th>Recommended Zone Provision</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>Detached Second Residential Units <em>(a)</em></td>
<td>This complies with Section 3.3.11 of the Official Plan by allowing second residential units to be established in accessory buildings subject to the zone provisions. The Province has advised that second residential units may not be more restrictive than the zone provisions applicable to accessory structures. Staff are proposing that the rear yard setback be increased from the accessory structure provisions (in the majority of the by-laws 1.2 metres is a typical rear yard setback for accessory structures and in some residential zones it can be 0 metres). The existing accessory structure provisions in the by-laws did not contemplate habitable space within the structures; therefore, minimum setbacks are being proposed. The proposed 3 metre setback is approximately 40% of what would be required for a rear yard setback for a principal dwelling. Requiring these minimums will assist in protecting privacy and minimize shadowing and overlook on neighbouring properties as</td>
</tr>
<tr>
<td>Number</td>
<td>Recommended Zone Provision</td>
<td>Rationale</td>
</tr>
<tr>
<td>--------</td>
<td>---------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>outlined in Section 2.7.3 of the Official Plan. It should also be noted that zone provisions in the by-laws in regards to landscaped open space and lot coverage are also still applicable. The accessory use provisions in the five zoning by-laws is included as Exhibit D.</td>
</tr>
<tr>
<td>19</td>
<td>Detached Second Residential Units (b) A detached accessory building containing a second residential unit must be located in the interior side yard or rear yard.</td>
<td>This provision will assist in maintaining existing streetscapes. Requiring the detached second unit to be in the rear or interior side yard also emphasizes the main dwelling as being the principal use on the property as it would not be located in front of the principal dwelling or in the exterior side yard.</td>
</tr>
<tr>
<td>20</td>
<td>Detached Second Residential Units (c) The footprint of a building containing a detached second residential unit excluding an accessory use which serves the principal residential dwelling may not exceed 40% of the footprint of the principal dwelling, or where the principal dwelling has a footprint of 125 square metres or less, 50 square metres. (i) Footprint means the area of the ground floor of a building, measured from the exterior of the outermost walls, including an attached garage.</td>
<td>The footprint of the detached second residential unit is proposed to be restricted in order to ensure that the second residential unit remains ancillary in appearance to the principal unit. In situations where 40% would be too small an area, a minimum of 50 square metres is proposed to ensure that the detached second residential unit can be large enough to accommodate sufficient functional space.</td>
</tr>
</tbody>
</table>

The proposed zoning map to identify the Holding 'H' Symbol and where second residential units are restricted due to servicing constraints is included as Exhibit E.

Zoning By-Law Number 8499 is proposed to be further amended by deleting Section 5.2 (b) Prohibited Uses. This section of the by-law currently states that:

Notwithstanding anything contained in this by-law, the following uses of land or of buildings shall not be permitted within any zone in the City of Kingston:
(b) the use of a cellar as a dwelling unit or as a habitation unit unless otherwise indicated in the by-law.

This provision is proposed to be removed in order to increase opportunities to allow second residential units in the cellar and be consistent with By-Law Numbers 97-102, 76-26 and 32-74, which currently permits habitable space in a cellar. It should also be noted that the Ontario Building Code also permits habitable space in the cellar when conditions outlined in the Ontario Building Code are met. The exception to this is in select servicing constraint areas that are at risk of basement flooding as noted in (5) above.

**Zoning By-Law Considerations**

Zoning By-Law Numbers 97-102, 76-26 and 32-74 contain existing permissions and associated regulations for second residential units within dwellings. An outline of how these provisions are proposed to be amended as well as the proposed changes to Zoning By-Law Numbers 8499, 96-259, 97-102, 76-26 and 32-74 to add permissions and regulations for second residential units have been described in the above report.

**Technical Circulation Process**

The application has been circulated to a number of internal departments and external agencies for review and comments. The responses to the technical circulation will be addressed in the technical review and included in the comprehensive report for consideration at a future Planning Committee meeting.

**Existing Policy/By-Law:**

The proposed amendment will be reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes will be consistent with the Province’s and the City’s vision of development. The following documents will be assessed:

**Provincial**

*Planning Act*

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan

Zoning By-Law Numbers 8499, 96-259, 97-102, 76-26 and 32-74

**Notice Provisions:**

Pursuant to the requirements of the *Planning Act*, a notice of the Statutory Public Meeting was provided by advertisement in The Kingston Whig-Standard on June 12, 2018, more than 20 days in advance of the Public Meeting. In addition, notices were sent by mail to all required public agencies and to 18 property owners who have requested to be notified of future amendments with respect to second residential units. A courtesy notice was also placed in The Kingston Whig-Standard on June 24, 2018.
Accessibility Considerations:
Not applicable

Financial Considerations:
Not applicable

Contacts:
Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252
Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223
Greg Newman, Manager, Policy Planning 613-546-4291 extension 3289
Andrea Furniss, Senior Planner 613-546-4291 extension 3219

Other City of Kingston Staff Consulted:
Jim Miller, Director, Engineering & Human Resources, Utilities Kingston

Exhibits Attached:
Exhibit A Existing Second Residential Zone Provisions in Zoning By-Law Numbers 97-103, 76-26 and 32-74
Exhibit B Existing Pilot Project Area
Exhibit C Municipal Comparison Chart
Exhibit D Accessory Structure Zone Provisions in Zoning By-Law Numbers 8499, 97-103, 76-26 and 32-74
Exhibit E Proposed Zone Map
Exhibit F Proposed Amended Schedule 11-C – Servicing Constraints
Cataraqui North Zoning By-Law (97-102)

Section 6 - Definitions

Second Residential Unit means a legally existing separate dwelling unit, which is ancillary to a principal residential unit and includes a separate access, kitchen, washroom, and living space. (By-Law Number 2013-44)

5.29 Second Residential Units

Notwithstanding any other provision of this by-law, where a second residential unit is permitted, as shown on Schedule “B” to this by-law, the following provisions shall apply:

ww) Where a second residential unit is located on a lot, no garden suite, boarding house, or rooming house shall be permitted; (By-Law Number 2013-44)

b) Second residential units shall be permitted in a single detached dwelling, semi-detached dwelling, and townhouse dwelling in all LDR, LDR1, LDR/I, LDR/NC, and MDR zones identified on Schedule “A”. Second residential units shall not be permitted in a detached accessory building or structure that is connected to a single detached dwelling through an enclosed walkway; (By-Law Number 2013-44; 2013-223)

c) All second residential units must meet provisions of the Ontario Building Code, as amended, and obtain necessary Building Permits;

xx) A maximum of one second residential unit shall be permitted on a lot;

yy) A second residential unit shall have a gross floor area not exceeding 40% of the gross floor area of the principal residential unit or 90 square metres, whichever is lesser. For the purposes of this provision, calculations for gross floor area shall refer to the total area of each floor, including finished attic spaces, whether located above, at, or below grade, measured from the interior of outside walls and including floor area occupied by interior walls, but excluding: zz) floor area occupied by mechanical, service and electrical equipment that serve the building; a) an open porch or balcony; and b) areas internal to the building that are intended for the storage of vehicles;

ccc) In addition to any other parking requirements, parking space(s) required by Section 5.17 of the by-law shall be provided for the second residential unit. Notwithstanding anything to the contrary in this by-law, the required parking may be provided through a tandem or stacked parking arrangement. The parking space location for the second residential unit shall meet the yard and driveway provisions of the zone;

ddd) An additional driveway is not permitted for a second residential unit;
h) The second residential unit shall have separate access from that of the principal residential unit. Access shall be provided at the front of the building, or at the side or rear of the building where a minimum 1.2 metre wide unobstructed walkway, that does not impede drainage, from the front of the building to the access is provided; and

eee) A second residential unit shall only be permitted in a dwelling house noted in subsection 5.29(b) if said dwelling house is connected to municipal services. (By-Law Number 2013-44)

5.17

Parking Standards Table

Second Residential Unit - 1 parking space per dwelling unit (By-Law Number 2013-44)
Kingston Township Restricted Area Zoning By-Law (76-26)

(30) Second Residential Units

Notwithstanding any other provision of this by-law, where a second residential unit is permitted, as shown on Schedule D to this by-law, the following provisions apply:

(a) Where a second residential unit is located on a lot, no garden suite, boarding house, or lodging house shall be permitted;

(b) Second residential units shall be permitted in all single family dwelling houses, semi-detached dwelling houses, and row dwelling houses in all residential zones identified on Schedule “D”;

(c) All second residential units must meet provisions of the Ontario Building Code, as amended, and obtain necessary Building Permits;

(d) A maximum of one second residential unit is permitted on a lot;

(e) A second residential unit shall have a gross floor area not exceeding 40 per cent of the gross floor area of the principal residential unit or 90 square metres, whichever is lesser. For the purposes of this provision, calculations for gross floor area shall refer to the total area of each floor, including finished attic spaces, whether located above, at, or below grade, measured from the interior of outside walls and including floor area occupied by interior walls, but excluding:
   i) floor area occupied by mechanical, service and electrical equipment that serve the building;
   ii) an open porch or balcony; and
   iii) areas internal to the building that are intended for the storage of vehicles;

(f) In addition to any other parking requirements, parking space(s) required by subsection 5(16)(a) of the by-law shall be provided for the second residential unit. Notwithstanding anything to the contrary in this by-law, the required parking may be provided through a tandem or stacked parking arrangement. The parking space location for the second residential unit shall meet the yard and driveway provisions of the zone;

(g) An additional driveway is not permitted for a second residential unit;

(h) The second residential unit shall have separate access from that of the principal residential unit. Access shall be provided at the front of the building, or at the side or rear of the building where a minimum 1.2 metre wide unobstructed walkway, that does not impede drainage, from the front of the building to the access is provided; and

(i) A second residential unit shall only be permitted in a dwelling house noted in subsection 5(30)(b) if said dwelling house is connected to municipal services or private water and sewerage systems approved to service a second residential unit by the authority having competent jurisdiction.
(j) A second residential unit is prohibited in a flood plain.

(k) The lands identified in Schedule “D” of this by-law as having a –H Holding Symbol for the purposes of introducing a secondary suite use shall be required to satisfy the conditions of Section 6(6) of Zoning and Remove the –H Symbol prior to obtaining a Building Permit.

16) Parking Regulations

(a) Parking Regulations

Minimum Parking Space Requirement:

Other Residential Uses permitted by this by-law: 1 parking space per dwelling unit
Pittsburgh Township Restricted Area Zoning By-Law (32-74)

Section 4 - Definitions

(114A) “Second Residential Unit” means a legally existing separate dwelling unit, which is ancillary to a principal residential unit and includes a separate access, kitchen, washroom, and living space. (By-Law Number 2013-43)

(32) Second Residential Units

Notwithstanding any other provision of this by-law, where a second residential unit is permitted, as shown on Schedule C, Map 1, to this by-law, the following provisions shall apply:
(By-Law Number 2013-43; 2013-193)

(a) Where a second residential unit is located on a lot, no garden suite, boarding house, or lodging house shall be permitted;
(By-Law Number 2013-43)

(b) Second residential units shall be permitted in all single family dwelling houses, semi-detached dwelling houses, row dwelling houses, and planned unit row dwelling houses in all residential zones identified on Schedule C, Map 1;
(By-Law Number 2013-43; 2013-193)

(c) All second residential units must meet provisions of the Ontario Building Code, as amended, and obtain necessary Building Permits;

(d) A maximum of one second residential unit shall be permitted on a lot;

(e) A second residential unit shall have a gross floor area not exceeding 40% of the gross floor area of the principal residential unit or 90 square metres, whichever is lesser. For the purposes of this provision, calculations for gross floor area shall refer to the total area of each floor, including finished attic spaces, whether located above, at, or below grade, measured from the interior of outside walls and including floor area occupied by interior walls, but excluding:
   (i) floor area occupied by mechanical, service, and electrical equipment that serve the building;
   (ii) an open porch or balcony; and
   (iii) areas internal to the building that are intended for the storage of vehicles;

(f) In addition to any other parking requirements, parking space(s) required by subsection 5(14)(a) of the by-law shall be provided for the second residential unit. Notwithstanding anything to the contrary in this by-law, the required parking may be provided through a tandem or stacked parking arrangement. The parking space location for the second residential unit shall meet the yard and driveway provisions of the zone;
(g) An additional driveway shall not be permitted for a second residential unit except in R1-zoned lots not served by public water and sanitary sewer systems, as well as ER, RR, A1, and A2 zones. An additional driveway shall only be permitted in R1-zoned lots that are served by public water and/or sanitary sewer systems, as well as R2, R3, R4, and R5 zones in the case of corner lots where all other provisions of this by-law have been met. Where permitted in the case of corner lots, the additional driveway shall be setback a maximum of 1.0 metre from the rear lot line, accommodate one parking space with a depth of 6.0 metres and a maximum width of 3.0 metres, and meet sight triangle requirements of subsection 5(19) of the by-law and the applicable sight triangle provisions of the specific zone. No portion of any parking space to accommodate a second residential unit shall be located within the municipal right-of-way;

(h) Where an additional driveway is to be located in the interior side yard of a permitted corner lot, it shall be setback a maximum of 1.0 metre from the interior side lot line. The additional driveway shall meet sight triangle requirements of subsection 5(19) of the by-law and the applicable sight triangle provisions of the specific zone;

(i) The second residential unit shall have separate access from that of the principal residential unit. Access shall be provided at the front of the building, or at the side or rear of the building where a minimum 1.2 metre wide unobstructed walkway from the front of the building to the access is provided;

(j) A second residential unit shall only be permitted in a dwelling house noted in subsection 5(32)(b) if said dwelling house is connected to municipal services or private water and sewerage systems approved to service a second residential unit by the authority having competent jurisdiction; and

(By-Law Number 2013-43)

(k) The lands identified in Schedule C, Map 1, of this by-law as having a -H Holding Symbol for the purposes of introducing a Secondary suite use shall be required to satisfy the conditions of Section 5(24) of Zoning By-Law Number 32-74 and Remove the -H Symbol prior to obtaining a Building Permit.

(By-Law Numbers 2013-43; 2013-193)

(14) Parking Area Regulations

(a) Requirements

<table>
<thead>
<tr>
<th>Type of Use:</th>
<th>Minimum Parking Space Requirement:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second Residential Unit</td>
<td>1 parking space per dwelling unit (By-Law Number 2013-43)</td>
</tr>
<tr>
<td>Municipality</td>
<td>Guelph (Dundas By-law)</td>
</tr>
<tr>
<td>----------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Term</td>
<td>Accessory Apartment</td>
</tr>
<tr>
<td>Permitted in Single-Detached</td>
<td>Yes</td>
</tr>
<tr>
<td>Permitted in Semi-Detached</td>
<td>Yes</td>
</tr>
<tr>
<td>Permitted in Townhouse</td>
<td>No</td>
</tr>
<tr>
<td>Permitted in Accessory Building</td>
<td>No</td>
</tr>
<tr>
<td>No Exterior Changes</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Number</td>
<td>1</td>
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<tr>
<td>Municipality</td>
<td>Guelph</td>
</tr>
<tr>
<td>-----------------------</td>
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</tr>
<tr>
<td><strong>Parking</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Floor Area</strong></td>
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</tr>
<tr>
<td><strong>Servicing</strong></td>
<td>Not Specified</td>
</tr>
<tr>
<td><strong>Interior Access</strong></td>
<td>Required</td>
</tr>
</tbody>
</table>

58
<table>
<thead>
<tr>
<th>Municipality</th>
<th>Guelph (Dundas By-law)</th>
<th>Hamilton (Flamborough By-law)</th>
<th>Kitchener (Existing By-law)</th>
<th>Kitchener (Draft By-law dated April 2018 - Not Yet Adopted)</th>
<th>London</th>
<th>Ottawa</th>
<th>Ottawa</th>
<th>Waterloo (Draft By-law dated April 2017- Not Yet Adopted)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum Lot Area</strong></td>
<td>Not Specified</td>
<td>Where detached house conforms to the zoning by-law</td>
<td>610 square metres</td>
<td>125 square metres in addition to lot area of other dwelling in R2 through R5 zones; R6 has no additional lot area required</td>
<td>Not Specified</td>
<td>Not Specified</td>
<td>Not Specified</td>
<td>0.4 hectare</td>
</tr>
<tr>
<td><strong>Bedroom (Max.)</strong></td>
<td>2</td>
<td>Not Specified</td>
<td>Not Specified</td>
<td>Not mentioned</td>
<td>Not Specified</td>
<td>Not to exceed total permitted for primary (when primary and secondary combined)</td>
<td>Not Specified</td>
<td>Not Specified</td>
</tr>
<tr>
<td><strong>Permitted Within a Principal Dwelling</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td><strong>Permitted on Same Lot</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Must be within primary dwelling</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td><strong>Building Code Requirements</strong></td>
<td>Not Mentioned</td>
<td>Not Specified</td>
<td>Not Specified</td>
<td>Not mentioned</td>
<td>Not mentioned</td>
<td>Mentioned</td>
<td>Not Specified</td>
<td>Not Specified</td>
</tr>
<tr>
<td><strong>Rental License Required</strong></td>
<td>Yes</td>
<td>Not Specified</td>
<td>Not Specified</td>
<td>No</td>
<td>No</td>
<td>Required under licensing of 6 units or less</td>
<td>Not Specified</td>
<td>Not Specified</td>
</tr>
<tr>
<td><strong>Minimum Lot Width</strong></td>
<td>(Within principal so same as principal as default)</td>
<td>Not Specified</td>
<td>18-metre min. lot frontage</td>
<td>Not specified</td>
<td>Not Specified</td>
<td>Not specified</td>
<td>Not Specified</td>
<td>Not Specified</td>
</tr>
<tr>
<td>Municipality</td>
<td>Guelph (Dundas By-law)</td>
<td>Hamilton (Flamborough By-law)</td>
<td>Kitchener (Existing By-law)</td>
<td>Kitchener (Draft By-law dated April 2018 - Not Yet Adopted)</td>
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<td>-------------------------------------------------------------</td>
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<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>Not Specified</td>
<td>Not Specified</td>
<td>Not Specified</td>
<td>A secondary dwelling unit in an accessory structure shall be required to meet the regulations of the zone which apply to accessory structures</td>
<td>Not Specified</td>
<td>4 metres, except 1 metre within areas A, B, and C on Schedule 1, where the interior side lot line abuts a travelled lane or where no entrance or window faces the interior side lot line</td>
<td>(Within principal so same as principal as default)</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>Only permitted in R1, R2, R3, R4, 15A Conversion Zone, 15B Heritage District</td>
<td>Only permitted in Core Residential Zone (R5) Required 1.8 metres Interior side yard</td>
<td>Not permitted in basement when property is in a floodplain or when below sanitary sewer level. A secondary dwelling unit within an accessory structure may only be permitted in the rear yard or interior side yard. No new driveway permitted.</td>
<td>Not permitted in Area D on Schedule 1; no rooftop amenity areas; no window or entrance on any wall facing and within 4 metres of a lot line. No new driveway permitted, 1.2 metre wide walkway required</td>
<td>Not permitted within a building containing a lodging house, accessory apartment, bed and breakfast, coach house or garden suite. Coach houses and garden suites are prohibited. Not permitted within floodplain areas.</td>
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Cataraqui North Zoning By-Law (97-102)

5.3 Detached Accessory Buildings And Enclosed Walkways On Lots Accessed By Lanes

Detached accessory buildings and enclosed walkways associated with a residential use that are accessed only by a lane are subject to the following requirements.

5.3.1 Detached accessory buildings

5.3.1.1 Setbacks from lot lines

Detached accessory buildings shall be located:

a) a minimum distance of 0.6 metres from the rear lot line;

b) a minimum distance equal to exterior side yard requirement for the main building from the exterior side lot line;

c) a minimum of 0.6 metres from the interior side lot line. A detached accessory building may share a common wall with another detached accessory building on an abutting lot and no setback from the interior side lot line is required on that side of the lot. In no case shall an accessory building share a common wall with more than one other accessory building on an abutting lot. In no case shall an accessory building or structure be located in the front or exterior side yard. Notwithstanding this provision, enclosed walkways are permitted in the exterior side yard subject to the provisions of Section 5.3.2.

5.3.1.2 Setback from main building

Any detached accessory building shall be setback a minimum of 6.0 metres from the main building on the lot. The staircase used to access the building and any accessory building or structure with a floor area of less than 10.0 square metres shall be excluded from this provision, provided the accessory building or structure is not attached to another accessory building or structure.

5.3.1.3 Parking of motor vehicles in setback area

The parking of motor vehicles is not permitted in the setback area required by Section 5.3.1.2 between a detached accessory building and the main building on a lot that is accessed by a lane.

5.3.1.4 Encroachment of eaves, gutters and roof overhangs
Eaves, gutters and roof overhangs may encroach into any setback area required by Sections 5.3.1.1 and 5.3.1.2 a distance of no more than 0.45 metres. (By-Law Number 97-102)

5.3.1.5 Maximum permitted floor area

The floor area of all detached accessory buildings on the lot shall not exceed 18 percent of the lot area. The floor area of the staircase used to access the building and any accessory building or structure with a floor area of less than 10.0 square metres shall be excluded from the calculation of floor area, provided the accessory building or structure is not attached to another accessory building or structure. (By-Law Numbers 97-102; 2013-223)

5.3.1.6 Maximum height

The maximum permitted height of any detached accessory building is 4.5 metres.

5.3.1.7 Regulations for stairs and landings

Unenclosed stairs and landings that access the detached accessory building may encroach a distance of 0.6 metres into the setback area required by Section 5.3.1.2. (By-Law Number 97-102)

5.3.1.8 Detached Accessory Building Use

Detached accessory buildings in a residential zone may be used for passive recreational purposes, such as a living room, study, den, recreational room, studio and similar uses. Home occupation uses are prohibited. (By-Law Numbers 2008-168; 2013-223)

5.4 Detached Accessory Buildings On Lots Not Accessed By Lanes

Detached accessory buildings associated with a residential use that are accessed only by a driveway from a public street are subject to the following requirements.

5.4.1 Setbacks from lot lines

Detached accessory buildings shall be located:

a) A minimum of 0.6 metres from the rear lot line. A detached accessory building may share a common wall with another detached accessory building on an abutting lot and no setback from the rear lot line is required.

b) A minimum distance equal to exterior side yard requirement for the main building from the exterior side lot line.
c) A minimum distance of the front yard requirement for the main building from the front lot line. (By-Law Number 97-102)

d) A minimum of 0.6 metres from the interior side lot line. A detached accessory building may share a common wall with another detached accessory building on an abutting lot and no setback from the interior side lot line is required on that side of the lot. In no case shall an accessory building share a common wall with more than one other accessory building on an abutting lot. (By-Law Number 97-102; 2013-223)

Notwithstanding subsections (b) and (c), in no case shall the wall of a private garage containing the opening for vehicular access be located closer than 6.0 metres to the lot line abutting the public street that the driveway crosses to access the private garage. In no case shall a detached accessory building or structure be located in the front or exterior side yard.

Kingston Township Restricted Area Zoning By-Law (76-26)

(1) Accessory Uses

(a) Uses Permitted:

Except as specifically permitted elsewhere in this by-law, where this by-law provides that a lot may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or structure or accessory use, but shall not include any of the following uses:

(i) Any occupation for gain or profit conducted within or accessory to a dwelling unit;

(ii) Any building or portion thereof used for human habitation;

(iii) Any open storage area. (83-43)

(b) Lot Coverage: The total lot coverage of all accessory buildings on a lot in a Residential Zone shall not exceed 10 per cent of the lot area.

(c) Height: Except as otherwise provided herein, no accessory building or structure shall exceed 15 feet in height.

(d) Location:

(i) Notwithstanding the yard provisions of this by-law to the contrary, drop awnings, clothes poles, flag poles, garden trellises, fences, retaining walls, legal signs, marine facilities, or similar accessory uses shall be permitted in any yard.
(ii) Except as otherwise provided herein, in a Residential Zone, any accessory building or structure which is not attached to the main building shall not be erected in any yard other than the interior side yard or rear yard.

(iii) Consolidation Note - Temporary approval of this clause expired on October 18, 1985 in conjunction with an Order of the Ontario Municipal Board dated April 16, 1985. (83-43).

(iv) No Air Conditioner shall be constructed closer than 1.2 metres to any side or rear lot line nor in any required front yard. (By-Law Number 2006-42)

(e) Yards and Setbacks:

All accessory buildings shall comply with the yard and setback provisions of the zone in which such accessory building or structure is located, except that in a Residential Zone, an accessory building or structure shall comply with the following provisions:

(i) It shall be no closer than 4 feet to the interior side lot line except where a mutual private garage is erected on the common lot line between two lots, in which case no interior side yard is required; (By-Law Numbers 76-26; 2008-165)

(ii) When such accessory building is located in the rear yard, it shall be no closer than 4 feet to the rear lot line; (95-129)

(iii) In no case shall a detached accessory building or structure be located closer than 20 feet to any street line deemed to be the Front Lot Line or Exterior Side Lot Line or closer than 4 feet to a main building; (95-129)

(iv) Notwithstanding the provisions of Section 5(1)(d)(ii) hereof to the contrary, on a lot having a shoreline, a detached accessory building or structure may be erected in a front yard or exterior side yard provided it is not located in a required yard and provided that it is constructed of material similar to the main building and conforms with it architecturally; (83-43)

(v) Paragraph (iii) above shall not apply to a storage tank having a capacity of less than 125 United States Water Gallons. (86-38) and (95-129).

(f) Detached accessory buildings in a residential zone may be used for passive recreational purposes, such as a living room, study, den, recreational room, studio and similar uses; home occupation uses are prohibited. (By-Law Numbers 76-26; 2008-165)
(1) Accessory Uses

(a) Uses Permitted: Where this by-law provides that a lot may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building, structure or use, but shall not include any of the following uses:

(i) Any occupation for gain or profit conducted within or accessory to a dwelling unit;

(ii) Any building used for human habitation; except as in this by-law is specifically permitted. (By-Law Number 32-74)

(b) Exceptions:

(i) Loading Spaces shall conform to the provisions of Section 5(10) (Loading Space Regulations);

(ii) Driveways and Parking areas shall conform to the provisions of Section 5(14) (Parking Area Regulations). (By-Law Number 32-74; 10-92)

(c) Location:

(i) All accessory uses, buildings or structures shall be located on the same lot and in the same Zone as the main permitted use;

(ii) Notwithstanding any yard provisions of this by-law to the contrary, drop awnings, clothes poles, flag poles, light standards, garden trellises, fences, walls (other than the wall of a building), gates, gateposts, gateways, lamp posts, lawn ornaments, legal signs, sub-surface heating, cooling and sewage disposal facilities, walkways, landscaping, berms, patios flush with the finished surface of the ground surrounding the patio, or similar accessory uses shall be permitted anywhere on a lot, except that the provisions of Section 5(19) (Sight Triangles) of this by-law shall apply;

(iii) No detached accessory building shall be located closer than 2.0 metres to a main building;

(iv) Notwithstanding any other provisions of this by-law to the contrary, an accessory boat house, pump house, dock, wharf, or marine facility may be erected and used in a yard abutting a lot line contiguous with a navigable waterway or waterbody, provided such accessory use, building or structure meets the required setback from any other lot lines;
(v) Notwithstanding any other provisions of this by-law to the contrary, an accessory boathouse, pump house, dock, wharf, or marine facility may be erected and used on lands abutting a lot line contiguous with a navigable waterway or waterbody, provided that such accessory use, building, or structure does not encroach on adjacent water frontage when the lot boundaries are extended into the water and provided that all necessary permits and permissions have been obtained;

(vi) Nothing in this by-law shall prevent the erection of a detached private garage in the front yard of a lot having a lot line contiguous with a navigable waterway or waterbody, provided it is not located within a required setback, a required front yard depth, or a required side yard width, except where a mutual private garage is erected on the common lot line between two lots, no minimum interior side yard width is required. (By-Law Numbers 32-74; 10-92); and

(vii) No Air Conditioner shall be constructed closer than 1.2 metres to any side or rear lot line nor in any required front yard. (By-Law Numbers 2006-41; 2013-193).

(d) Yards:

Except as otherwise provided herein, all accessory uses, buildings, and structures shall comply with the setback provisions of this by-law and the provisions of the Zone in which such use, building, or structure is located, except that in an LSR, R1, R2, R3 (row dwellings and boarding houses only), R4, R5, R6, R7, R8, R9, R10, or R11 Zone, an accessory use, building or structure shall comply with the following provisions: (By-Law Numbers 32-74; 20-81; 10-92; 46-93; 61-93; 67-93; 16-96).

(i) No accessory use, building or structure shall be located within a required setback, a front yard, a required front yard depth, an exterior side yard, or a required exterior side yard width;

(ii) No accessory use, building or structure shall be located closer than 1.2 metres to an interior side lot line except where a mutual private garage or a mutual boathouse is erected on the common lot line between two lots, in which case, no minimum interior side yard width is required.

(iii) No accessory use, building or structure shall be located closer than 1.2 metres to a rear lot line except where a mutual private garage or a mutual boathouse is erected on the common lot line between two lots, in which case, no minimum rear yard depth is required. (By-Law Numbers 32-74; 20-81; 10-92)
(e) Height:

(i) All accessory uses, buildings and structures, except as provided elsewhere in this by-law, shall comply with the height provisions of the Zone in which such accessory use, building or structure is located, except that in any LSR, R1, R2, R3 (row dwellings and boarding houses only), R4, R5, R6, R7, R8, R9, R10, or R11 Zone, an accessory use, building or structure, other than an attached private garage, shall not exceed 5 metres in height. (By-Law Numbers 10-92; 61-93; 67-93; 16-96).

(f) Height Of Boathouse:

No boathouse shall exceed a height of 6 metres, nor consist of more than one-storey. (By-Law Numbers 32-74; 20-81; 10-92)

(g) Detached accessory buildings in a residential zone may be used for passive recreational purposes, such as a living room, study, den, recreational room, studio and similar uses. Home occupation uses are prohibited. (By-Law Number 2008-164)
City of Kingston Restricted Area Zoning By-Law (8499)

5.17 Accessory Building

The following provisions shall govern the erection, alteration, enlargement, maintenance and use of accessory buildings:

(a) Zones A1, A2, A3, A5, A7 and B1:

i. Maximum Height: 4.6 metres

ii. Maximum Lot Coverage: 10 per cent of lot area

iii. Location of Lot Detached Accessory buildings shall be located:

- Not less than 1.8 metres from the main building
- Not closer to the street than the front of the main building

iv. For detached accessory buildings located in the side yard, in addition to the foregoing regulations, the minimum side yard requirements of Sections 7.3(c), 8.3(c), 9.3(c), 11.3(c), 12A.3(c), 12A.3(d) and 14.3(b) shall apply respectively. (By-Law Numbers 8725 – 1976; 95-189 – 1995)

(b) Zone A

i. Maximum Building Height: 4.6 metres (By-Law Number 83-168 – 1983)

ii. Maximum Lot Coverage: 10 per cent of lot area

iii. Location of Lot

(1) Subject to Section 5.17 (c) (iii) (2) of this by-law, any accessory building shall be located in the rear yard of the main building it serves, and shall be no closer than 1.2 metres from any lot line.

(2) A private garage may be located on any side yard, subject to the same setback and minimum side yard regulations as the main building it serves.

(3) No accessory building shall be located within 1.2 metres of any window or door of the main building to which it is accessory, except on the case of interior lots 10.7 metres or less in width and which are on a registered plan registered prior to the passing of this by-law, in which case the accessory building may be located within 0.3 metres of any line of the lot on which it is erected or within 1.2 metres of any window or door of the main building to which it is accessory.
(4) In the case of a corner lot at the rear of which (whether a lane intervenes or not) there is a lot restricted to residential purposes fronting on a street which flanks such corner lot, any accessory building erected upon such corner lot shall be located in such a manner that no part of it shall be nearer the street line of the flanking street than the distance described as a setback line for the said rear lot.

c) Zone A4

i. Maximum Height: 4.6 metres

ii. Distance Of Accessory Building From Main Building: 1.8m (By-Law Numbers 8499 – 1975; 79-174 – 1979)

iii. Sideyard: same as main building or 1.2 metres whichever is greater. (By-Law Numbers 8499 – 1975; 2005-2008 – 2005)

iv. Distance From Side Lot Line (By-Law Number 8499 – 1975)

(1) Attached Carport in Side Yard Where a one-storey carport not over 3.4 metres wide that is open on three sides except for necessary supporting columns is attached to the side of a dwelling, the carport may project into a side yard until it comes to within 0.3 metres of the side lot line.

(2) Attached Garage in Side Yard where a one-storey garage is attached to the side of a dwelling the garage may project into the side yards until it comes to within 1.2 metres of the side lot line. (By-Law Numbers 8499 – 1975; 79-174 – 1979)

d) Zone A6

i. Maximum Height: the height of the mobile home to which it is accessory

ii. Maximum Lot Coverage: 10 per cent of lot area

iii. Location On Lot: same provision as govern the mobile home to which it is an accessory building.

e) Zone B

i. Maximum Height: 4.6 metres (By-Law Number 83-168 – 1983)

ii. Maximum Lot Coverage: 15 per cent of lot area

iii. Location on Lot:

(1) Subject to Section 5.17(e)(iii)(2) of this by-law, any accessory building shall be located in the rear yard of the main building it serves, and may be located on the lot line.
(2) A private garage may be located in any side yard, subject to the same setback regulations as the main building it serves. (By-Law Number 8499 – 1975)

(3) No accessory building shall be located within 1.2 metres of any window or door of the main building to which it is accessory, except in the case of interior lots 10.7 metres or less in width and which are on a registered plan, registered prior to the passing of this by-law, in which case the accessory building may be located within 0.3 metres of any line of the lot on which it is erected or within 1.2 metres of any window or door of the main building to which it is accessory. (By-Law Numbers 8499 – 1975; 79-174 – 1979)

(4) In the case of a corner lot at the rear of which (whether a lane intervenes or not) there is a lot restricted to residential purposes fronting on a street which flanks such corner lot, any accessory building erected upon such corner lot shall be located in such a manner that no part of it shall be nearer the street line of the flanking street than the distance described as a setback line for the said rear lot. (By-Law Number 8499 – 1975)

(f) Zones B2 and B3:
   i. Maximum Height: 4.6 metres (By-Law Number 8499 – 1975; 79-174 – 1979);
   ii. Maximum Lot Coverage: 10 per cent of lot area; and
   iii. Location On Lot: same as main building it serves.

(g) An attached garage in all zones shall be deemed to form part of the main building.

(h) Notwithstanding any other section of this by-law to the contrary, detached accessory buildings in a residential zone may be used for Amenity Area, Private. Home occupation uses are prohibited. (By-Law Numbers 8499 – 1975; 2008-166)
Downtown and Harbour Restricted Area Zoning By-Law (96-259)

5.1 Accessory Buildings Or Structures
The erection, alteration, enlargement, renovation, maintenance and use of accessory buildings and structures shall comply with the regulations of the applicable zone, except as otherwise provided for in this section.

5.1.1 Yard Where Permitted
An accessory building or structure, or part thereof, may occupy a yard, other than a required front or exterior side yard, on a lot provided that:

(a) Not more than 30 per cent of the required yard is occupied.

(b) Such accessory building or structure is not located within 1.0 metre (3 feet) of any lot line. Notwithstanding the foregoing an accessory building or structure shall meet the minimum required distance from the water’s edge as required in the applicable zones.

(c) No detached building or structure shall be located closer than 1.2 metre (4 feet) to a main building.

5.1.2 Height
Unless otherwise specified in this by-law, an accessory building or structure shall not exceed 4.6 metres (15 feet) in height except as provided for in Section 5.19.

5.1.3 Use Not Permitted
No accessory building or structure shall be used for human habitation.

5.1.4 Maximum Coverage
No accessory building or structure, including outdoor above ground swimming pools, shall cover more than ten (10) per cent of the lot area.
Despite the above, outdoor in-ground swimming pools shall be permitted to exceed ten (10) per cent of the lot area in accordance with Sub-Section 5.1.6.

5.1.5 Structures Exempt From Setbacks The following structures are exempt from the requirements of setbacks: a fence, boundary walls less than 1.2 metres (4 feet) in height, retaining walls, sidewalks, pavements, bollards, curbs or open air surfaced areas, mailboxes, clothesline poles, a sign, advertising device, newspaper or similar dispensing boxes, planters, statues, sculptures, birdbaths, play equipment less than 1.2 metres (4 feet) in height, pillars (less than one square metre) but shall not include any other landscape features which have a continuous foundation.