



City of  
**Peterborough**

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**To:** **Members of the General Committee**

**From:** **W. H. Jackson**  
**Commissioner of Infrastructure and Planning Services**

**Meeting Date:** **May 14, 2018**

**Subject:** **Report IPSPD18-017**  
**Official Plan Amendment O1801 and Zoning By-law**  
**Amendment Z1804**  
**Secondary Suites Policy Review**

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## **Purpose**

A report to evaluate the planning merits of amending the Official Plan and Zoning By-law to permit secondary suites throughout the City.

## **Recommendations**

That Council approve the recommendations outlined in Report IPSPD18-017 dated May 14, 2018, of the Commissioner of Infrastructure and Planning Services:

- a) That the Official Plan be amended to permit secondary suites throughout the City in accordance with Exhibit A of Report IPSPD18-017.
- b) That Section 1 – Definitions of Zoning By-law 97-123 be amended in accordance with Exhibit B of Report IPSPD18-017.
- c) That Section 4.2.A (i) of Zoning By-law 97-123 be deleted and replaced in accordance with Exhibit B of Report IPSPD18-017.
- d) That Section 6.33 – Additional Dwelling Unit of Zoning By-law 97-123 be amended in accordance with Exhibit B of Report IPSPD18-017.
- e) That Section 6.25 Units – Prohibited Locations of By-law 97-123 be deleted in accordance with Exhibit B of Report IPSPD18-017.

## Budget and Financial Implications

While no immediate budget or financial implications will result from this report, enforcement of the City's Zoning By-law regulations and the administration of the proposed Registration By-law (to be considered by General Committee at a later date) will require an increased time commitment by Staff. Building and Fire Department staff will be required to conduct inspections and enforce the **Ontario Building Code, Ontario Fire Code** and Zoning By-law where necessary.

## Background

Secondary suites, which may also be known as in-law suites, granny suites, second units and accessory apartments, are self-contained residential units with a private kitchen, bathroom facilities and sleeping areas within dwellings or within structures ancillary to a dwelling.

In 2011, the Province passed the **Strong Communities through Affordable Housing Act** which amended the **Planning Act** to require municipalities to permit secondary suites in their official plans and zoning by-laws. Specifically, the Act requires the City to permit secondary suites in detached, semi-detached and row/townhouse dwellings and within buildings that are ancillary to these housing types if the main dwelling does not contain a secondary suite.

This legislative change was one of a number of action items contained in the Province's Long-Term Affordable Housing Strategy that was released in 2010 (and was subsequently updated in 2016). Section 2 of the **Planning Act** states that the adequate provision of a full range of housing, including affordable housing, is a matter of Provincial interest that municipalities must have regard to when carrying out responsibilities under the Act. Furthermore, the **Provincial Policy Statement, 2014**, indicates that the City shall permit and facilitate all forms of residential intensification, including second units, while the **Growth Plan for the Greater Golden Horseshoe, 2017**, requires municipalities develop a housing strategy that includes second units as a means of providing a diverse range and mix of housing options to meet the needs of current and future residents.

In broad terms, this promotion of secondary suites is intended to increase the supply and range of affordable rental accommodation and to benefit the wider community by:

- Allowing homeowners to earn additional income to help meet the cost of homeownership;
- Supporting changing demographics by providing more housing options for extended families or elderly parents, or for a live-in caregiver;

- Helping create mixed-income communities, which support local businesses and local labour markets;
- Making more efficient use of existing infrastructure, including public transit;
- Making more efficient use of the existing housing stock;
- Creating jobs in the construction/renovation industry; and
- Assisting the City to meet goals regarding affordable housing, intensification and density targets, and climate change mitigation and greenhouse gas emissions reduction.

To ensure smooth implementation of secondary suites, the **Strong Communities through Affordable Housing Act** removed any public ability to appeal municipal official plan and zoning by-law amendment decisions that give effect to secondary suites.

## Current City Planning Policy and Regulations

Generally, secondary suites are regulated through planning approvals (i.e. official plan policy and zoning by-law regulations) and building permit approvals (i.e. **Ontario Building Code** and other applicable law). The policy and regulatory changes that the City is required to make to support secondary suites are limited to planning approvals and do not affect the ongoing obligation to obtain building permits and comply with applicable law when creating secondary suites.

Presently, Section 4.2.3.9 of the Official Plan indicates that the City will encourage the creation of secondary suites in areas that will be identified in the Plan subject to regulations that will be added to the Zoning By-law. Similarly, Sections 10.8.2.12 and 10.9.3.3.3 encourage secondary suites within the Chemong and Lily Lake secondary plan areas respectively subject to implementation in the Zoning By-law.

To date, the Zoning By-law has not been comprehensively amended to allow secondary suites in response to these policies. Notwithstanding this, since 1992 Section 6.33 of the Zoning By-law has allowed an “additional dwelling unit” within any zoning district in the Central Business District (CBD). Based on building permit data, it appears that the City has seen little use of this zoning regulation. Since 2000, it is estimated that fewer than 10 units have been created using this provision.

Currently, outside of the CBD, secondary suites can only be added to dwellings on lots that are zoned and sized to allow for more than one unit (e.g. the R.2 district). Typically, the vast majority of inquiries that the City receives regarding secondary suites are from property owners wanting to add a suite to a single detached dwelling on a lot that is zoned to allow only one unit (i.e. the R.1 district). Accordingly, to add a secondary suite

on such a lot, property owners must currently apply for a Zoning By-law amendment which is subject to Council approval, a full technical agency review, and public consultation.

In some instances, there are secondary suites in the City that are considered permitted units despite their zoning because of historic planning legislation. In 1994, the province passed the **Residents Rights Act** (Bill 120) which allowed secondary suites within detached, semi-detached and row/town houses located on properties that are residentially zoned and connected to municipal sanitary sewers despite any municipal Official Plan policies and Zoning By-law regulations that may restrict otherwise. This legislation was in effect only for a short period and was repealed in 1996 by the **Land Use Planning and Protection Act** (Bill 20).

Although Bill 120 is no longer in effect, its legacy carries on to this day. Any secondary suites that were in existence as of November 16, 1995 and meet the criteria of Bill 120 are considered permitted uses for zoning purposes. Furthermore, any secondary suites that were constructed pursuant to a building permit that was issued on or before May 22, 1996 (the period while Bill 120 was in effect) are also considered permitted uses for zoning purposes.

While the City has a record for any suite that was constructed with a building permit during this period, there are many suites that were in existence as of November 16, 1995 that had no previous documentation with the City. As a consequence, if a property owner can prove to the City that a secondary suite existed on November 16, 1995, and that suite meets the requirements of Bill 120 (including **Ontario Fire Code** and **Electrical Safety Code** compliance), the City is obligated to acknowledge the suite and to consider it a permitted use. Since 2000, approximately 350 such suites have been acknowledged in the City.

## City Strategic Policy Direction

In November 2013 the City approved the Peterborough 10-year Housing and Homelessness Plan, 2014 - 2024 which contains 20 commitments for addressing provincial priorities in housing and homelessness. As a Service Manager for Housing and Social Services, the City is required to have a Housing and Homelessness Plan pursuant to the **Housing Services Act, 2011**.

One of the commitments made in that Plan is to support affordable housing in municipal planning documents by, among other things, establishing local guidelines for use by property owners to develop secondary suites in the City. To achieve this, the City committed to updating its Official Plan and Zoning By-law to support development of secondary suites.

As noted in the Plan, secondary suites can provide a private sector approach to helping housing affordability by creating new rental units which are typically less expensive than building a new rental building. Rental income generated by secondary/garden suites can also help home owners with their mortgage payments.

Between 2006 and 2017, the City's former Affordable Housing Action Committee produced an annual Housing is Fundamental newsletter describing the state of housing affordability in our community. The 2017 edition notes that Peterborough's rental vacancy rate is one of the lowest in the country at 1%. Additionally, with rents averaging at almost \$1,000 per month, almost half of all renter households in Peterborough (48.6%) are spending more than 30% of their household income on housing thus making them vulnerable to homelessness. As of December 2017, 1,526 names were on a waiting list for social housing in the greater Peterborough area.

With such a need for affordable rental housing, increasing the supply of affordable housing is a priority of the Housing and Homelessness Plan. Affordable housing provides stability for people as they work, seek jobs and care for each other and helps people to live healthy, productive lives.

## **Factors to Consider when permitting Secondary Suites**

When the City receives Zoning By-law amendment applications from property owners seeking to add a secondary suite to their dwelling, staff often hear concerns from neighbouring residents regarding parking, health and safety for future occupants of the dwelling, erosion of neighbourhood character and property values, undesirable behaviour from tenants, and a deterioration of property maintenance.

An overarching concern for staff throughout the secondary suites policy review has been a desire to implement policy and regulations that support secondary suites while also minimizing the impact that secondary suites may have on the surrounding community.

Although the regulation of secondary suites in planning documents will be unique to each municipality, the province has provided the following guidance on how to approach updating planning policies and regulations:

1. Official Plans should generally be permissive and Zoning By-laws should generally allow secondary suites as-of-right so that no development applications (e.g. an official plan or zoning by-law amendment, a minor variance or a site plan) are required prior to applying for a building permit.
2. Official Plans should allow secondary suites throughout the community in both existing and new dwellings unless there are other planning considerations such as flood risk or areas where emergency access may be limited.

3. Parking should be limited to one additional space for a secondary suite and tandem parking should be permitted to facilitate secondary suites; parking for secondary suites could be eliminated where transit is available.
4. Secondary suites should be permitted without a requirement to demonstrate servicing capacity unless there are previously documented servicing constraints; secondary suites in dwellings serviced by septic systems and private wells should be required to demonstrate servicing capacity.
5. The size of secondary suites and the number of bedrooms should generally be regulated by the **Ontario Building Code** rather than by municipal zoning by-laws however capping the size of a secondary suite to be less than or equal to the size of the principal dwelling would be acceptable.
6. Municipal by-laws should not include regulations related to access and egress for secondary suites as these standards are set by the **Ontario Building Code** and **Ontario Fire Code**.
7. Secondary suites should have limited impact on streetscape and architectural design however if municipalities establish design standards to address these matters, the standards should be clearly set out in the zoning by-law.
8. The Planning Act does not allow zoning to distinguish individuals on the basis of relationship so zoning by-laws should permit occupancy of a principal dwelling unit or a secondary suite regardless of whether the homeowner is a resident of either unit.
9. Municipalities should have a means for tracking and monitoring secondary suites such as a registry that could assist in establishing inspection processes and alerting emergency services of the location of secondary suites.

## **The Peterborough Approach – Proposed Official Plan Amendment**

Upon review of the applicable legislation, provincial guidelines, and approaches taken by other municipalities, the City is proposing to amend the Official Plan to permit secondary suites wherever the City's comprehensive Zoning By-law applies as follows:

- Secondary suites will be permitted in single detached, semi-detached and row/townhouse dwellings subject to regulations in the Zoning By-law;
- A secondary suite may be permitted in a building that is accessory to the main dwelling;

- Only one secondary suite will be permitted for each main dwelling;
- Severances to separate a secondary suite into separate ownership from the main dwelling will not be permitted;
- Secondary suites shall generally be directed to areas outside of hazardous lands which are impacted by flooding hazards and/or erosion hazards and shall not be permitted within a floodway as defined in the **Provincial Policy Statement, 2014**; and,
- Secondary suites must be developed with municipal services unless permission is explicitly granted otherwise in the Zoning By-law.

To implement this direction, Section 4.2.3.9 will be deleted in its entirety and replaced with a new secondary suites policy as detailed in Exhibit A. Additionally, Sections 10.8.2.12 and 10.9.3.3.3 will be deleted since they will be made redundant by the new secondary suites policy. In staff's opinion, the proposed Official Plan amendment implements both the spirit and intent of not only the applicable provincial legislation and policy, but also the City's 10-year Housing and Homelessness Plan.

## **The Peterborough Approach – Proposed Zoning By-law Amendment**

To give effect to the proposed Official Plan direction, the City is proposing to amend the Zoning By-law as detailed in Exhibit B by amending Section 6.33 which permits Additional Dwelling Units in the CBD to include new regulations that would allow secondary suites wherever Zoning By-law 1997-123 applies as follows:

- A secondary suite would only be permitted where the principal dwelling is a permitted use within a residential zoning district;
- Secondary suites in accessory buildings would be subject to the existing regulations of Section 6.18 that pertain to residential accessory buildings with respect to building setbacks, size and height;
- Secondary suites would be limited to a maximum of two bedrooms and would require a minimum floor area of 28 square metres (301 square feet) and a maximum floor area that is less than the floor area of the principal dwelling;
- One additional parking space would be required for a secondary suite except in the downtown (Parking Area No. 1) where no additional parking would be required (tandem parking would be permitted); and,
- Section 6.25 – Units – Prohibited Locations which regulates ceiling height for dwelling units in basements relative to the outside ground elevation would be deleted.

A summary of these regulations, including a map of the City's parking areas, is included in Exhibit C.

### **Residential Zoning Districts**

Presently, there are examples of dwellings located in non-residential zoning districts such as commercial districts, open space districts and development districts that are either considered legal non-conforming uses or are considered permitted uses but are restricted from changes in land use. Generally, it is expected that these dwellings will transition over time to a land use that implements the zoning on the property. To prevent promoting the long-term use of these properties for residential purposes, the proposed zoning regulations limit secondary suites to residentially-zoned properties where the principal dwelling is a permitted use.

In the CBD, a maximum of one Additional Dwelling Unit is currently permitted in any building that was used exclusively for residential purposes on January 1, 1992. This permission could apply to any residential building in the CBD including single detached dwellings, semi-detached dwellings, row dwellings, and any other kind of residential building. The proposed secondary suites regulations, which apply to single detached dwellings, semi-detached dwellings, row dwellings that are permitted uses in a residential zoning district, offer more flexibility for these types of dwellings to create suites compared to the Additional Dwelling Unit provisions. In particular, the secondary suites regulations do not require additional parking, limit the size of a suite to 55 square metres (592 square feet), or restrict eligibility to dwellings that existed as of January 1, 1992.

To ensure that the flexibility of the proposed secondary suites regulation applies in the CBD, the regulation clarifies that single detached dwellings, semi-detached dwellings and row dwellings that are permitted uses in a residential zoning district will be subject to the new secondary suites regulation. For all other residential buildings in the CBD, the existing Additional Dwelling Unit regulation will continue to apply.

### **Accessory Buildings**

Staff has proposed to regulate the location, height and coverage of secondary suites located in accessory buildings using existing Section 6.18 – Residential Accessory Buildings in addition applying the proposed secondary suites regulation. Utilizing Section 6.18 will ensure that detached suites are of a size, height, and location that is consistent with what could already be expected for an accessory building on a residentially zoned property. Furthermore, because Section 6.18 will be applied in conjunction with the proposed secondary suites regulation which includes a minimum unit size requirement, it is anticipated that detached secondary suites will typically only locate on larger lots that have the capability of meeting the two regulations.

## **Unit Size**

The proposed secondary suites regulation includes a provision for a minimum unit size of 28 square metres and a limit of two-bedrooms. The minimum unit size is consistent with existing Zoning regulation 6.34 which describes the size of a bachelor dwelling unit.

## **Number of Bedrooms**

The proposed Zoning By-law Amendment restricts secondary suites to a maximum of two bedrooms. In staff's opinion, it is necessary to limit the number of bedrooms in secondary suites in order to limit the potential impact that suites will have on a neighbourhood and to help maintain a distinction in the Zoning By-law between dwellings with secondary suites and other types of two-unit dwellings such as duplexes. Housing Division staff has identified smaller apartments (i.e. bachelor, 1 bedroom and 2 bedroom) as being of the greatest need right now in the City. In staff's opinion, the proposed secondary suites regulation not only will help to fulfill this need, but also meets the intent of the provincial legislation and policy.

## **Parking**

Schedules E (1) and E (2) of the Zoning By-law divide the City into three areas for regulating off-street parking:

- a) Area 1 encompasses the CBD;
- b) Area 2 covers the inner suburban portions of the city bounded by Parkhill Road, Park Street, Lansdowne Street, and the Otonabee River; and,
- c) Area 3 captures all other areas.

Generally, more parking is required moving from one area to the next (i.e. from Area 1 through to 3).

Staff is proposing that no additional off-street parking be required for suites located in Area 1 while one additional off-street parking space be required for suites located in Areas 2 and 3. Furthermore, staff recommends that tandem parking be allowed to facilitate secondary suites. These approaches are consistent with the provincial guidance.

Given the broad availability of transit in Area 1, the availability of long-term parking at parking facilities, and the availability of a broad range of shops, services and jobs within the CBD, it is staff's opinion that additional parking is not required for suites in Area 1. For suites located in Area 2, the requirement of one parking space per suite is generally consistent with current parking regulations for two-unit dwellings. In Area 3, a dwelling with 2 units would typically require a total of four off-street parking spaces (i.e. two per unit). Accordingly, as proposed, a house with a secondary suite would be required to provide a total of three off-street parking spaces (two for the principal dwelling, one for the

suite) instead of four. In staff's opinion, limiting the number of bedrooms in a secondary suite will reduce the demand for parking.

Staff acknowledges that not all properties will be able to accommodate the required parking for both the principal dwelling and a secondary suite. In Area 3, for example, there are many lots in newer subdivisions where the lot width and dwelling placement eliminate the ability to accommodate a third parking space. In these cases, the lots would not be eligible for a secondary suite.

### **Building and Fire Code Applicability in Municipal By-laws**

In their guidance to municipalities, the province noted that issues typically addressed in the **Ontario Building Code** and **Ontario Fire Code** should be excluded from municipal by-laws. Presently, Section 6.25 of the Zoning By-law prohibits a dwelling unit from having more than 50% of its floor area in a basement unless the ceiling of the basement is at least 1 metre above lot grade. Upon review with Building Division and Fire Services, it is staff's opinion that ceiling height, access and egress, and standards for window openings and natural light are regulated in the **Ontario Building Code** and/or the **Ontario Fire Code**. Accordingly, staff is proposing that Section 6.25 be deleted in its entirety. Removing Section 6.25 will improve many dwellings' eligibility for having a secondary suite subject to complying with the applicable codes.

Parts 3 and 9 of the **Ontario Building Code** prescribe standards for Fire Department access to buildings. Part 3 applies to large buildings (i.e. over 600 square metres in building area or having a height greater than 3 storeys) while Part 9 applies to housing and small buildings. In Part 3, fire department access must be provided to large buildings that do not have a direct fire department connection (i.e. a standpipe) such that the length of the access route from a hydrant to a pumper vehicle plus the unobstructed path of travel for the firefighter from the vehicle to the primary entrance of the building does not exceed 90m, and the unobstructed path of travel for the firefighter from the pumper vehicle to the primary entrance of the building does not exceed 45 m. In Part 9, which applies to secondary suites, the regulation is less specific and requires that, where access to a building is provided through a private roadway or yard, that consideration be given to a variety of factors including accessibility to public thoroughfares and location of fire hydrants.

Notwithstanding the provincial guidance to omit **Ontario Building Code** requirements from municipal by-laws, Peterborough Fire Services and the Building Services Division recommend that the Zoning By-law include provisions to ensure that the location of principal entrance to a secondary suite does not exceed 90 metres from a fire hydrant or that an alternative solution be provided for approval by the City of Peterborough Building Services Division and the Peterborough Fire Services. In staff's opinion, this direction is consistent with the intent of Article 9.10.20.3 of the **Ontario Building Code** and will provide property owners with clear direction on the requirement for fire department access to secondary suites where Part 9 of the Code is currently ambiguous. This

requirement would apply to all secondary suites, regardless of whether they are located in a detached accessory building or within the principal dwelling.

Accordingly, the proposed Zoning By-law contains regulations that mirror the wording of Articles 3.2.5.5. (2)(b) and (c) of the **Ontario Building Code**. Furthermore, the proposed By-law also includes flexibility to allow property owners to propose an alternative solution that promotes public safety when the access distance for normal fire protection practices is exceeded. One such alternative solution could be the installation of a sprinkler system.

### **Natural Hazards**

Section 3.1 of the **Provincial Policy Statement, 2014** generally directs development to areas outside of hazardous lands which are impacted by flooding hazards and/or erosion hazards and it prohibits development and site alteration within a floodway.

The **Provincial Policy Statement** considers a change in land use requiring approval under the **Planning Act** to be development. Accordingly, the proposed Zoning By-law amendment to allow secondary suites is considered development. To ensure that development is not permitted in a floodway (in Peterborough, all flood plain areas are considered floodway), the proposed Zoning By-law prohibits secondary suites within a floodway.

Locally, the Otonabee Region Conservation Authority is responsible for regulating development in proximity to, among other things, lands that are impacted by erosion hazards. Specifically, **Ontario Regulation 167/06 – Otonabee Region Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses** prohibits development in or on hazardous lands unless, in the opinion of the Authority, the development will not affect the control of flooding, erosion, dynamic beaches, pollution or the conservation of land. Based on this existing regulation, the proposed Zoning By-law does not explicitly regulate the location of secondary suites in proximity to erosion hazard lands.

### **Servicing, Zoning Interpretation, and Definitions**

Generally, secondary suites will be required to develop on municipal water and wastewater services. However, in instances where the Zoning By-law explicitly allows development on private septic systems and wells, secondary suites will be given flexibility to use private services provided the capacity of those services can comply with the **Ontario Building Code**.

The proposed by-law will also clarify that secondary suites are not to be counted as a dwelling unit when interpreting the definition of Lot Grade and regulations in the Zoning By-law that relate to the number of dwelling units in a building or on a lot.

Finally, the proposed Zoning By-law amendment will add new definitions for Principal Dwelling Unit, Secondary Suite, and Semi-detached Dwelling to support the proposed

secondary suites regulation, and will add regulations to recognize suites that exist pursuant to **Ontario Regulation 384/94** (Apartments in Houses).

## Proposed Secondary Suites Registry

Concurrent with the development of the proposed Official Plan and Zoning By-law amendments, staff is proposing to establish a publicly accessible registry that will keep track of all secondary suites that are created as a result of the proposed planning policy and regulation changes. Maintaining a registry of secondary suites is necessary for ensuring that all suites meet applicable law including, but not limited to, the Zoning By-law, the **Ontario Building Code**, and the **Ontario Fire Code**. A secondary suites registry will also enable emergency services and waste management services to know where suites are located and will allow the public to check whether a suite has met all municipal requirements.

Through the passing of a registration by-law, staff will require all secondary suites in the City to register and will create additional power for the City to inspect properties and enforce penalties on unregistered suites. Furthermore, the registry will compel existing undocumented suites to seek registration thus triggering a review of the suite's compliance with the Zoning By-law, **Ontario Building Code**, the **Ontario Fire Code**, and other applicable law. For suites that have already been acknowledged by the City under Ontario Regulation 384/94, these suites will be automatically added to the registry.

Presently, the proposed Registration By-law is being finalized and will be brought forward to Council for consideration under a separate report in the next two or three months.

## Consultation and Response to Notice

Throughout the secondary suites policy review, Planning Division staff has directly consulted with staff from across numerous divisions including the Building Division, Peterborough Fire Services, Legal Services, Clerk's Office, Housing Division, Waste Management, and GIS/Mapping. Additionally, through venues such as the Property and Development Review Committee, Planning Division staff has also consulted staff from the Heritage Preservation Office, Recreation Division, Utility Services, and Peterborough Utilities Services Inc.

Since 2016, staff have met with several groups to discuss approaches to permitting secondary suites including:

- Peterborough and the Kawarthas Association of Realtors – October 2016;
- Peterborough Landlords Association – November 2017;

- Peterborough Homelessness Support Services Coordinating Committee – January 2018;
- Smart Home Choice Inc. (webinar) – February 2018;
- Century 21 United Realty Inc. – February 2018; and,
- Peterborough and the Kawarthas Home Builders Association – March 2018.

Additionally, Planning Division staff, together with staff from the Building Division, the Peterborough Fire Services, and the Housing Division, hosted three public open houses (two in December 2017, one in March 2018) to gather public input on a proposed approach to permitting secondary suites in the City. The sessions were advertised in the Peterborough Examiner and on the City's website and attracted approximately 30 participants each.

Since 2016, staff has gathered a contact list of over 130 members of the public who are interested in the City's secondary suites policy review. Throughout the process, staff have received several calls each week from property owners and property investors who are interested in establishing secondary suites. Notice of Complete Application and Public Meeting was issued on April 16, 2018 by newspaper advertisement (Peterborough Examiner) and by direct mail and email to commenting agencies and members of the public that have requested to receive notice.

To date, the majority of comments received have been in support of secondary suites.

At its inaugural meeting dated April 24, 2018, the Planning Advisory Committee endorsed the proposed Official Plan and Zoning By-law amendments as recommended herein.

### **Age-friendly Peterborough**

The Age-friendly Peterborough Advisory Committee (AFP) has advised that it supports the proposal to permit secondary suites because:

- a) Peterborough is in need of more housing options, and specifically, more affordable housing options;
- b) Secondary suites can lower the monthly carrying costs for homeowners, generate needed income and security, and allow people to continue to live in their neighbourhoods as they age; and
- c) The proposal to require registration of secondary suites will help ensure safety by requiring compliance with the Ontario Building and Fire Codes.

AFP also recommended that consideration be given to either requiring universal design standards to address a desperate need for accessible, barrier-free housing or to providing

incentives to promote accessibility. At this time, staff is focusing on fulfilling the City's obligations under the Planning Act to permit secondary suites. In staff's opinion, requiring secondary suites to be designed with barrier-free access could act as a disincentive for the creation of secondary suites.

With respect to incentives, no new financial incentives are currently proposed to facilitate accessibility in secondary suites. Notwithstanding this, the City's 10-year Housing and Homelessness Plan does commit the City to continue offering the Peterborough Renovates Program, subject to funding availability, which provides financial assistance to low and moderate-income homeowners to complete necessary repairs including accessibility upgrades. Furthermore, to promote the creation of secondary suites, the City's development charge by-laws exempt secondary suites from paying development charges where those suites are built within an existing dwelling and the **Development Charges Act** is currently being amended to exempt secondary suites from development charges in new dwellings as well.

AFP has suggested that allowing for conditional agreements between tenants and landlords could promote the creation of barrier-free secondary suites. From staff's perspective, the secondary suites initiative is intended to stimulate the private sector creation and rental of new units. Beyond regulating the land use planning environment and overseeing the building approvals process, the City will not have involvement in the relationship between landlords and tenants unless the City itself is the landlord.

Finally, AFP has suggested that some of the proposed zoning regulations such as the parking requirements and bedroom limits may act as a barrier to secondary suite creation. To address this concern, AFP recommends that consideration be given to the requirements of those segments of the population that are greatest need of secondary suites, such as older adults without a spouse, those who do not drive, and single adults willing to support an older adult in their primary residence.

Secondary suites have the potential to fulfill a variety of housing needs. People have a variety of housing needs including varying needs for bedroom and parking. In staff's opinion, secondary suites need to be planned in a way that serves as broad of a population base as possible since the City is unable to regulate who lives in a unit. Accordingly, it is staff's belief that the proposed regulations appropriately balance the need for providing new rental housing with the need to accommodate the requirements of a broad range of future tenants.

### **Peterborough Utilities Services Inc.**

Peterborough Utilities has advised that pursuant to **Ontario Regulation 389/10** made under the **Energy Consumer Protection Act, 2010**, if a secondary suite is heated by electric heat, the suite will either require a separate electricity meter or the electricity consumption for the suite shall be paid for by the property owner. This information will need to be conveyed to property owners seeking to install a secondary suite.

## **Ongoing Secondary Suite Developments**

In addition to receiving significant public interest in permitting secondary suites in the City, staff is aware of a number of existing properties that are waiting for implementation of secondary suites regulations as well.

The Building Services Division has advised that it is currently investigating approximately 75 to 100 properties for having undocumented secondary suites. For many of these properties, the proposed Zoning By-law amendment may address their outstanding Zoning By-law compliance concerns. Presently, by-law enforcement on many of these properties has been placed on hold pending the outcome of the proposed Official Plan and Zoning By-law amendments.

Additionally, the Housing Division has advised that DeafBlind Ontario Services is proposing to add a secondary suite onto its existing residence, “Earlwood House”, which is a congregate home with supports for people with physical and sensory impairments. The secondary suite will allow DeafBlind Ontario Services to pool support resources better as residents from two homes will be together at one site. The secondary suite will be added to the side of the building at ground level, providing a fully accessible home with specialized features for two residents. Funding for operations and supports are already in place however the Zoning By-law must be updated before a building permit can be issued for the suite.

## **Public Responses**

Most comments received from the public have focused on how to improve the proposed secondary suites regulations and removing potential barriers to secondary suites. Some suggestions that have been made include:

- Providing exemptions for parking along main corridors such as Lansdowne Street West, Chemong Road, and Hunter Street East;
- Reducing fees for minor variance requests that are related strictly to parking requirements for secondary suites;
- Establishing a mechanism for permitting existing suites that do not comply with the proposed zoning by-law regulation such as an amnesty period; and,
- Providing financial incentives to facilitate existing undocumented suites to register with the City.

Presently, staff are not proposing to create special incentives or to grant further reductions in parking other than what is provided in the City’s development charge by-laws and in the proposed Zoning By-law regulation. In staff’s opinion, the proposed

zoning regulation strikes a balance between promoting secondary suites and minimizing their impact on the community.

Based on other municipalities' experiences with permitting secondary suites, it is expected that the potential cost of having to upgrade an existing undocumented suite to comply with the **Ontario Building Code**, the **Ontario Fire Code**, and other applicable law will deter some property owners from bringing their suites into compliance. As already noted, staff is currently preparing a by-law to require such units to register with the City and to demonstrate compliance with the Zoning By-law, the **Ontario Building Code**, the **Ontario Fire Code**, and other applicable law. Should the Council wish to implement special incentives for these units in particular, it may be appropriate to consider doing so once the secondary suite regulation and registry is in effect and staff has had an opportunity to review the program's effectiveness.

With respect to dwelling units that currently do not meet the proposed Zoning By-law regulations, property owners do have the option to seek a minor variance to permit a suite if the zoning deficiency is minor. However, if an existing unit is significantly deficient from the proposed Zoning By-law regulation, it is staff's expectation that the property will be either appropriately zoned to allow for a two-unit dwelling such as a duplex (rather than to allow the unit to be recognized as a secondary suite) or that the unit will be removed.

Some members of the public expressed concern with regulations that were previously proposed that would have capped the maximum floor area of a secondary suite to a percentage of the principal dwelling's floor area. The regulation being recommended at this time is not tied to a percentage of floor area but instead requires the suite to have a floor area that is less than that of the principal dwelling. This wording is consistent with language in the **Development Charges Act** related to secondary suites and will create greater flexibility for property owners to convert space within existing dwellings to a secondary suite.

Throughout the public consultation period, several individuals expressed the need to ensure that safety remains a top priority when permitting secondary suites. Prior to the issuance of a building permit for a secondary suite, the City must be satisfied that the proposed suite complies with the **Ontario Building Code**, the **Ontario Fire Code**, the Zoning By-law and all other applicable law. Through this process, the City will ensure that secondary suites are constructed to meet all current safety regulations. For existing undocumented suites, the forthcoming Registry By-law will ensure that such suites either comply with all applicable law or, if that is not possible, that the suite is removed.

At one of the public open houses, a participant expressed concern that secondary suites will decrease property values and, by doing so, will effectively deteriorate part of their planned retirement savings. Additionally, concerns were raised over property

maintenance on rental properties and of potential disturbances caused by tenants. As noted previously, the City is required to permit secondary suites. Accordingly, staff is endeavouring to permit secondary suites in a way that minimizes impacts on the surrounding community. In staff's opinion, the proposed Zoning By-law regulation will achieve that goal.

With respect to property maintenance and the behaviour of tenants, the City has property maintenance and noise control by-laws in place to address such complaints.

Some residents have expressed concern that secondary suites will cause a proliferation of parking on front lawns. Currently, the Zoning By-law specifies the minimum number of spaces required on a lot, the size and angle of parking spaces, the number of driveways allowed per lot and their width(s), as well as the maximum lot coverage for open parking areas, driveways and vehicle movement areas. However, in most cases, the Zoning By-law does not explicitly prevent vehicles from parking on grass or other landscaped open space areas on residential lots. In an attempt to reduce the demand for parking, the proposed secondary suites zoning regulation limits the number of bedrooms in a suite to two. Additionally, the regulation permits tandem parking in order to minimize the spread of parking across the width of a lot.

Concurrent with the secondary suites policy review, staff has been reviewing the City's regulations with respect to parking on front and site yards. To date, Council has received two reports on the matter (PLPD15-033 and PLPD17-037). Through this review, staff has proposed to introduce regulations and corresponding enforcement tools to prevent parking on front lawns. This review is currently ongoing and will be brought to Council for consideration at a future date.

For existing undocumented suites that may come forward to be recognized under the proposed regulations, questions have been raised with respect to the rights of tenants in such units. In particular, concern was expressed that landlords may evict tenants if significant renovations are required to bring an undocumented suite into compliance with applicable law or if a landlord is forced to remove a unit that cannot comply with applicable law. Under the **Residential Tenancies Act**, tenants have security of tenancy meaning that they can continue to occupy a rental unit until they either end their own tenancy, agree with the landlord to end the tenancy, or the landlord gives them a notice to end the tenancy for a reason that is allowed by the Act.

Typically, the City prefers to work with property owners to avoid undue harm on tenants when dealing with undocumented units. Notwithstanding this, under the Residential Tenancies Act, a landlord is permitted to terminate a tenancy if the landlord intends to do extensive repairs or renovations that require a building permit and that the unit be empty

during the work. In this situation, the landlord must provide at least 120 days notice to the tenant and the tenant is guaranteed the right to move back into the unit once the repairs or renovations are complete. Furthermore, if a tenant chooses to re-occupy a unit, the landlord cannot charge more rent than the tenant would have otherwise paid if they had not moved out.

Some members of the public anticipate that the City will see a significant increase in applications to create new secondary suites and to recognize existing undocumented units that will hamper the City's ability to inspect units in a timely manner. Presently, Building Division and Fire Services staff does not anticipate having difficulty managing the increased workload that may be generated by secondary suites. Having said that, once the secondary suite regulations are in place, staff will be better able to anticipate and manage workload based on housing market response to the regulations.

## Next Steps

Should Council support the recommended Official Plan and Zoning By-law amendments to permit secondary suites, staff will finalize the proposed Registry By-law for Council's consideration in the coming months.

Additionally, to support implementation of secondary suites, staff will work to conduct outreach and to produce materials to educate property owners on the City's secondary suites regulations. Through the public open house sessions, much of the discussion focused on the specific **Ontario Building Code** and **Ontario Fire Code** requirements for secondary suites. To help the public understand the requirements for creating a secondary suite in the City, staff will produce a guideline document that describes the process for creating, acknowledging, and registering secondary suites in the City along with the key elements of the **Ontario Building Code** and the **Ontario Fire Code** that apply to secondary suites.

## Summary

**The Planning Act** requires the City to amend its Official Plan and Zoning By-law to permit secondary suites. Similarly, the City's 10-year Housing and Homelessness Plan commits the City to updating its Official Plan and Zoning By-law in support of secondary suites. In staff's opinion, the recommended amendments to the Official Plan and Zoning By-law attached hereto in Exhibits A and B not only fulfill these requirements, but also seek to facilitate secondary suites in a way that is sensitive to the needs of the community.

In staff's opinion, the proposed amendments are consistent with the **Provincial Policy Statement, 2014** and conform to the policies of the **Growth Plan for the Greater Golden Horseshoe, 2017**.

Submitted by,

W.H. Jackson, P. Eng  
Commissioner of Infrastructure and Planning Services

Prepared by,

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**Attachments:**

Exhibit A – Draft Official Plan Amendment  
Exhibit B – Draft Zoning By-law Amendment  
Exhibit C – Secondary Suites Regulation Summary

Exhibit A, Draft Official Plan Amendment, Page 1 of 2



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## The Corporation of the City of Peterborough

### By-Law Number 18-

Being a By-law to adopt Amendment No. 177 to the Official Plan of the City of Peterborough to Permit Secondary Suites

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The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. Section 4.2.3.9 is deleted and replaced as follows:

“4.2.3.9 The City will permit secondary suites subject to the following criteria and the regulations of the Zoning By-law:

- a) Only one secondary suite for each single detached, semi-detached, or row/townhouse dwelling unit will be permitted;
- b) A secondary suite may be contained within a primary residential dwelling or in a building accessory thereto, but not in both;
- c) Severances to subdivide a secondary suite from its primary residential dwelling will not be permitted;
- d) A secondary suite shall generally be directed to areas outside of hazardous lands which are impacted by flooding hazards and/or erosion hazards and shall not be permitted within a floodway; and,
- e) Secondary suites shall be developed with municipal water and wastewater services unless permission is granted otherwise in the Zoning By-law.

2. Sections 10.8.2.12 and 10.9.3.3.3 are hereby deleted.

Exhibit A, Draft Official Plan Amendment, Page 2 of 2

By-law read a first, second and third time this 22nd day of May, 2017.

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Daryl Bennett, Mayor

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John Kennedy, City Clerk

Exhibit B, Draft Zoning By-law Amendment, Page 1 of 4



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## The Corporation of the City of Peterborough

### By-Law Number 18-

Being a By-law to Amend the Zoning By-law to Regulate and Permit Secondary Suites

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The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. Section 1 of By-Law 1997-123 is hereby amended by adding the following thereto:  
  
**“Principal Dwelling Unit** means a Dwelling Unit identified as a permitted use in a Residential District.  
  
**Secondary Suite** means a Dwelling Unit, including a Bachelor Dwelling Unit, which is self contained, accessory to, and situated within a Principal Dwelling Unit or within a residential Accessory Building.  
  
**Semi-detached Dwelling** means a Two Unit Dwelling consisting solely of two Dwelling Units separated by a vertical party wall.”
2. Section 4.2.A (i) is hereby deleted in its entirety and replaced with the following:  
  
4.2.A (i) Notwithstanding the foregoing, nothing in this by-law shall require a house containing an accessory apartment (Second Residential Unit) established pursuant to the Residents’ Rights Act, 1994 and in compliance with Ontario Regulation 384/94 (Apartments in Houses) made under the Planning Act, R.S.O. 1990, c.P13, to have more than two (2) parking spaces.
3. Section 6.25 Units – Prohibited Locations of By-law 1997-123 is hereby deleted.

Exhibit B, Draft Zoning By-law Amendment, Page 2 of 4

4. Section 6.33 Additional Dwelling Unit of By-law 1997-123 is hereby amended as follows:
  - a) By renumbering Section 6.33 as 6.33.1;
  - b) By changing the heading of the section from “Additional Dwelling Unit” to “Additional Dwelling Unit and Secondary Suite”;
  - c) By replacing the word “district” with:  
“Building used exclusively for residential purposes”
  - d) By adding the following after “C.B.D.”:  
“except for a Principal Dwelling Unit that is a Single Unit Dwelling, Semi-detached Dwelling, or a Row Dwelling,”
  - d) By adding the following thereto:  
“6.33.2 In the C.B.D., an Additional Dwelling Unit within a Single Unit Dwelling, Semi-detached Dwelling or Row Dwelling shall be considered a Secondary Suite and shall be subject to the regulations of Section 6.33.3.  
  
6.33.3 Notwithstanding anything contained in this By-law, Secondary Suites shall be permitted subject to the following regulations:
    - a) A maximum of one (1) Secondary Suite will be permitted within the following types of Principal Dwelling Units or within a residential Accessory Building associated therewith:
      - i. a Single Unit Dwelling;
      - ii. a Semi-Detached Dwelling Unit; or,
      - iii. a Row Dwelling Unit.
    - b) Secondary suites shall not be permitted within a floodway as defined in the Provincial Policy Statement, 2014, or any successor thereof.
    - c) A Secondary Suite located in an accessory building shall comply with Section 6.18 (Residential Accessory Buildings).
    - d) An access route for firefighting shall be provided so that,

Exhibit B, Draft Zoning By-law Amendment, Page 3 of 4

- i. A fire department pumper vehicle can be located so that the length of the access route from a hydrant to the vehicle plus the unobstructed path of travel for the firefighter from the vehicle to the primary entrance to the Secondary Suite shall not exceed 90m, and the unobstructed path of travel for the firefighter from the vehicle to the primary entrance to the Secondary Suite shall not exceed 45m, or
  - ii. An alternative is proposed that is acceptable to the Peterborough Fire Services and the City of Peterborough, Building Services Division.
- e) A Secondary Suite shall be serviced by public water distribution and wastewater collection facilities. Where municipal water distribution and wastewater collection services are not otherwise required by this By-law for a Principal Dwelling Unit, the use of private services to support a Secondary Suite will be permitted.
- f) Minimum floor area for a Secondary Suite: 28 square metres.
- g) Maximum floor area for a Secondary Suite: Less than the Floor Area of the Principal Dwelling Unit.
- h) Maximum Number of Bedrooms for a Secondary Suite: 2
- i) Motor Vehicle Parking for a Secondary Suite shall be provided and maintained as follows:
  - i. The Principal Dwelling Unit shall comply with the regulations of Section 4 (Parking, Loading and Driveways);
  - ii. No additional off-street parking shall be required for a Secondary Suite located in Area 1 as designated on Schedule E(1) to this By-law. One (1) off-street motor vehicle parking space, sized in accordance with Section 4.3.1, shall be required for a Secondary Suite located in Areas 2 and 3 as designated on Schedule E(1) to this By-law,

Exhibit B, Draft Zoning By-law Amendment, Page 4 of 4

- iii. Notwithstanding the provisions of Section 4 to the contrary, tandem parking spaces to facilitate a Secondary Suite shall be permitted.
- j) A Secondary Suite shall not be counted as a Dwelling Unit when interpreting Lot Grade or regulations in this By-law that pertain to the number of Dwelling Units in a Building or on a Lot.
- k) An accessory apartment (Second Residential Unit) that existed on or before November 16, 1995 or was created between November 17, 1995 and May 22, 1996 is considered to be a permitted use and is exempt from regulations a) to h) subject to compliance with Ontario Regulation 384/94 (Apartments in Houses) made under the Planning Act, R.S.O. 1990, c.P13, Ontario Regulation 213/07 (Fire Code) made under the Fire protection and Prevention Act, 1997, and Section 4.2.A(i) of this By-law.”

By-law read a first, second and third time this 22nd day of May, 2018.

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Daryl Bennett, Mayor

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John Kennedy, City Clerk

Exhibit C, Secondary Suites Regulation Summary, Page 1 of 3

## Secondary Suites Zoning By-law Regulation Summary

### Where are Secondary Suites Permitted?

- Within a single detached dwelling, semi-detached dwelling, or row/townhouse dwelling (i.e. the Principal Dwelling) that is a permitted use in a Residential Zoning District; or,
- In a building that is accessory to one of these dwellings.
- Secondary suites are not permitted in areas affected by flood plain pursuant to the Provincial Policy Statement, 2014.
- Secondary suites located in proximity to erosion hazards or other natural hazards are subject to permit approval by the Otonabee Region Conservation Authority.
- Permission for secondary suites does not apply to areas that are regulated by Township Zoning By-laws which have been inherited through municipal boundary adjustments.

### How many Secondary Suites are permitted?

- One secondary suite per Principal Dwelling unit.

### Are Secondary Suites limited in size?

- Minimum Floor Area: 28 square metres (301 square feet);
- Maximum Floor Area: Less than the floor area of the Principal Dwelling;
- Maximum number of bedrooms: two.

### Secondary Suites in Detached Accessory Buildings

Number of Principal Dwelling Units on Lot	Minimum Distance to Rear of Principal Dwelling	Minimum Distance from Side or Rear Lot Line	Maximum Height	Maximum combined coverage of Lot for all accessory buildings
1 or 2	1.2 metres (3.9 ft)	0.6 metres (2 ft)	4.3 metres (14.1 ft)	10%
3 to 15	2.4 metres (7.9 ft)	2.4 metres (7.9 ft)	4.3 metres (14.1 ft)	10%
Cumulative lot coverage of all accessory buildings plus coverage of the principal dwelling must comply with the overall lot coverage regulation of the applicable Residential Zoning District.				

Exhibit C, Secondary Suites Regulation Summary, Page 2 of 3

### **Fire Department Access**

Fire Department access must be provided such that:

- An access route from a hydrant to a pumper vehicle plus an unobstructed path of travel for a firefighter from the vehicle to the primary entrance of a Secondary Suite does not exceed 90 metres (295 feet),
- An unobstructed path of travel for a firefighter from a pumper vehicle to the primary entrance of a Secondary Suite does not exceed 45 metres (147.6 feet).

Where these distances can not be achieved, an alternative firefighting or access solution is required that promotes public safety to the satisfaction of the Peterborough Fire Services and the City of Peterborough Building Services Division.

### **Municipal Water and Sewer**

- Municipal water and sewer services are required;
- Private well and septic service may be used where permitted by the Zoning By-law and subject to Ontario Building Code compliance.

Exhibit C, Secondary Suites Regulation Summary, Page 3 of 3

**Parking Requirements**

Principal Dwelling Type	Parking Area 1	Parking Area 2	Parking Area 3
Single Detached	1 space for principal dwelling, 0 spaces for suite	1 space for principal dwelling, 1 space for suite	2 spaces for principal dwelling, 1 space for suite
Semi-detached	1 space per principal dwelling, 0 spaces per suite	1 space per principal dwelling, 1 space per suite	2 spaces per principal dwelling, 1 space per suite
Row/townhouse	1 space per principal dwelling, 0 spaces per suite	1.5 spaces per principal dwelling, 1 space per suite	1.75 spaces per principal dwelling, 1 space per suite
Tandem for a secondary suite parking is permitted in all parking areas.			

**Parking Area 1**



**Parking Areas 2 and 3**

