



# The Corporation of the Town of Milton

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ARReport To: Council

From: Jill Hogan, Commissioner, Development Services

Date: March 6, 2023

Report No: DS-011-23

Subject: Additional Residential Units - Policies and Regulations Update

**Recommendation:** THAT Report DS-011-23 providing background information for the additional residential units policies and regulations update be received for information;

AND THAT Council directs Staff to consult with the public and stakeholders regarding additional residential units policies and regulations;

AND THAT Council directs Staff to draft Official Plan policy and regulatory by-law updates for Council's consideration.

## EXECUTIVE SUMMARY

The Province of Ontario recently changed planning legislation to permit two additional residential units "as-of-right" on urban residential lots that have a detached house, semi-detached house or rowhouse. The Town needs to update its policies and regulations to implement provincial legislation and adequately regulate the mandated additional residential units.

This report provides background information about additional residential units, the existing policy framework and the Town's existing regulations. A discussion is provided for why this update is needed, as well as the considerations to take into account for additional residential unit policies and regulations.

Although the Province's "as-of-right" permissions for additional residential units only apply to the Town's Urban Area, the policies and regulations for the Town's Rural Area will also be reviewed. The provincial legislation does not require permissions for additional residential units in rural areas.

Should Council approve this report, Staff will proceed with next steps to conduct consultations with the public and stakeholders. Staff will also proceed to draft updates for the Town's Official Plan policies, Zoning By-law regulations and any other required regulatory by-laws. Staff plans to bring the draft additional residential units policy and

## EXECUTIVE SUMMARY

regulation updates to Council for consideration during a Public Meeting in May 2023 and the final recommendations for adoption in July 2023.

## REPORT

### Background

At the March 21, 2022 Council meeting, Staff provided [Report DS-017-22](#) summarizing the recommendations from the February 2022 Ontario Housing Affordability Task Force report. Based on the recommendations from the Task Force's report, the Ontario government has been making legislative changes in an effort to increase housing supply in the Province.

On October 25, 2022, the Ontario government introduced Bill 23, the More Homes Built Faster Act, which subsequently passed on November 28, 2022. Bill 23 included changes to the Planning Act that now provides "as-of-right" permissions for additional residential units on detached house, semi-detached house and rowhouse lots in urban areas across the Province.

### What are Additional Residential Units (ARUs)?

"Additional residential units" (ARUs) under the Planning Act refers to a second and a third residential unit in addition to a primary residential unit, for a total of three units, on a residential lot containing a detached house, semi-detached house or rowhouse.

All three units, including the primary residential unit and the two ARUs, may be located within the detached house, semi-detached house or rowhouse. Alternatively, one ARU may be located in an accessory building or structure on the lot, and the other ARU and the primary residential unit may be located in the primary house.

Please see Appendix A for illustrations of additional residential unit examples.

ARUs are also referred to as second units, secondary suites, accessory dwelling units, basement apartments, coach houses, laneway houses, garden suites, tiny homes, granny flats, in-law apartments or nanny suites.

To constitute a "residential unit", the unit needs to include a set of self-contained rooms containing kitchen and bathroom facilities intended for the exclusive use of the unit. The Planning Act does not include a definition for "rowhouse", however a rowhouse typically refers to a townhouse. Staff will consult with the Province regarding the definition of rowhouse as it applies to additional residential units.

### Bill 23 Planning Act Provisions for ARUs

With the passing of Bill 23, the Planning Act (the Act) now does not allow any municipal Official Plan policy or Zoning By-law regulations to prohibit additional residential units (ARUs) on a parcel of urban residential land. A "parcel of urban residential land" is

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defined by the Act to mean a parcel of residential zoned land that has municipal drinking water and sewage servicing. As such, the Bill 23 “as-of-right” permissions for ARUs only apply to urban areas that have municipal drinking water and sewage servicing, such as the Town’s Urban Area.

The Act now also prohibits Official Plans and Zoning By-laws from requiring more than one parking space per unit for the three residential units (which includes the primary residential unit and the two ARUs) permitted per parcel/lot. Any policy or regulation regulating minimum floor area for any of the three units is also prohibited.

The Bill 23 Planning Act also includes the provision that any municipal Official Plan policy or Zoning By-law regulation contravening the prohibitions regarding ARUs described above no longer has any effect.

For a more detailed description of Planning Act provisions for ARUs and a summary of the provincial policy planning framework, please see the policy review in Appendix B.

### Town of Milton ARU Regulations

Within the Town’s Urban Area, the Urban Zoning By-law only permitted one additional residential unit (ARU) within a detached house or a semi-link house. No ARU was permitted in a semi-detached house or rowhouse/townhouse, or in an accessory building or structure.

The Planning Act (the Act) now “as-of-right” permits up to three residential units on an urban residential lot and this permission overrides any conflicting municipal Zoning By-law regulations. Property owners may now apply for building permits to add the two ARUs per lot permitted by the Act. However, any regulations in the Town’s Zoning By-law not contravening the Act still apply and proposed ARUs are still subject to those regulations.

Within the Town’s Rural Area, the Rural Zoning By-law only permits one ARU in a detached house if it is on full municipal water and sewage services. Since no lots in the Rural Area have full municipal water and sewage services, ARUs are in practice not currently permitted in the Rural Area. The new Planning Act ARU provisions do not apply to the Rural Area.

For a more detailed description of the Town’s Urban and Rural Zoning By-law regulations regarding ARUs, please see the policy review in Appendix B.

## Discussion

### Why Update the Town’s ARU Policies and Regulations for the Urban Area?

Municipal land use planning must be carried out in accordance with the Planning Act. The Town’s Official Plan policies and Urban Zoning By-law regulations do not conform to

## Discussion

the current Planning Act provisions regarding additional residential units (ARUs), and as such need to be updated.

The Town's current regulations in the Urban Zoning By-law are not designed with the consideration of permitting the ARUs described in the Planning Act. For example, since a residential unit was not permitted within an accessory building or structure by the Town, the Town's Zoning By-law does not include regulations in consideration of human habitation within an accessory building or structure.

The Town's Urban Zoning By-law regulations and Official Plan policies regarding ARUs need to be reviewed and updated in accordance with the Planning Act requirements, but also taking into consideration other provincial and municipal interests such as ensuring health and safety, enhancing sustainability, the efficient use of existing infrastructure and protecting community character.

In conjunction with Bill 23, the Ontario government has assigned the Town of Milton a housing target of 21,000 new homes by 2031. Enabling ARUs, in accordance with the updated provincial legislation, will facilitate housing creation and contribute to meeting the Province's housing target for the Town.

ARUs also contribute to the supply of rental housing options, support diverse demographic needs such as multi-generational living and aging-in-place, and support homeownership viability by allowing the potential for homeowners to earn extra income.

Updating the Town's ARU policies and regulations will implement the Province's directive to facilitate housing creation and also provide homeowners with clear criteria for adding additional residential units that ensures Milton's community goals are met.

### **ARU Policy and Regulation Considerations**

Staff reviewed the ARU policies and regulations of a number of municipalities in Ontario, through a 'municipal scan', to examine ARU concerns, considerations and best practices. Some of the issues, considerations and best practices for updating Milton's ARU policies and regulations is discussed below. For a more detailed discussion and summary of the municipal scan, please see Appendix C & D.

As part of the public consultation process, Staff will consult with the public, agencies and stakeholders regarding any additional concerns and considerations for ARUs. All concerns raised will be considered and addressed in the final recommendation to Council for policy and regulation updates.

### ***Number of ARUs and Configuration***

Milton's additional residential units (ARU) policies and regulations will be updated in accordance with Planning Act (the Act) requirements. As such, within the Urban Area where municipal drinking water and sewage services are available, the Town's policies and regulations will be updated to permit two ARUs on a lot with a detached house,

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semi-detached house or rowhouse. ARUs will be subject to the updated development standards that will be set out in the Urban Zoning By-law.

In accordance with the Act, the Town's policies and regulations will also be updated to permit both ARUs within a detached house, semi-detached house or rowhouse. Alternatively, one ARU may be located within a building or structure accessory to a detached house, semi-detached house or rowhouse and the other ARU within the primary house.

### *Parking*

Additionally, as mandated by the Act, the Town's regulations for ARUs may not result in more than one off-street parking space required for each of the three units per lot, including the primary residential unit and the two ARUs. Municipalities have the choice of establishing a lower parking rate per unit. Not enough off-street parking has the potential to exacerbate on-street parking issues. Through the municipal scan, almost all the municipalities reviewed that allow two ARUs per lot require a minimum of one off-street parking space per unit.

### *Minimum Floor Area*

Also as mandated by the Act, the Town's regulations will not include minimum floor area requirements for the primary residential unit and the two ARUs permitted. However, it should be noted that the Ontario Building Code has minimum size requirements for rooms within a unit, which still need to be met.

### *Increased Density and Population*

The Planning Act's requirement to permit ARUs will result in some increased density and population in low and medium density neighbourhoods. However, it should be noted that not every lot with a detached house, semi-detached house or rowhouse will necessarily be able to accommodate two ARUs.

As mentioned, proposed ARUs will be required to meet the development standards that will be set out in the Urban Zoning By-law, as implemented through this policies and regulations update. For example, smaller sized lots may not be able to meet the parking requirements for two ARUs or townhouse lots may not be able to add an ARU in the backyard due to fire access constraints.

Through the municipal scan, it is common among the municipalities reviewed to regulate the maximum size of ARUs. Limiting the size of ARUs generally have the effect of limiting the number of residents within a unit.

### *Infrastructure Servicing Capacity*

In the Urban Area, ARUs may be added on land served by municipal drinking water and sewage services. To assess infrastructure capacity, a forecasted number of units and population will be required. However, as has been the experience of other municipalities, it is difficult to forecast ARU supply. The extent homeowners will add ARUs will depend

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on personal, financial and market factors. Drinking water and sewage infrastructure is provided and managed by Halton Region. Staff will consult with Halton Region regarding servicing capacity for ARUs.

### *Stormwater Management*

Stormwater management in local neighbourhoods is the responsibility of the Town. Soft surfaces, such as grass, infiltrate rain and melted snow to reduce runoff. Hard surfaces, such as driveways and paved parking, do not infiltrate stormwater and can contribute to flooding. The Town maintains soft surfaces on residential lots by regulating maximum lot coverage and minimum landscaped open space. These regulations should be maintained for stormwater management purposes, but may be reviewed in consideration of ARUs.

Changing the grading on residential lots, for ARUs in an addition to the primary building or in an accessory building or structure, have the potential for flooding impacts on neighbouring properties. Staff will review existing and potential municipal processes that can ensure proper grading of residential lots.

### *Neighbourhood Character*

Milton's neighbourhoods, particularly the Mature Neighbourhood Areas as identified in the Official Plan, have an established sense of place and neighbourhood character. Through the municipal scan, other municipalities have also identified compatibility with the existing physical character of established neighbourhoods as a policy and regulation consideration for ARUs.

Examples of regulations from other municipalities to address compatibility with existing neighbourhood character include limiting the floor area of ARUs, not permitting an ARU within an accessory building to be located in the front yard and not permitting a separate entrance for an ARU on the front façade of a house to maintain the overall appearance from the street.

### *Impacts on Adjacent Properties*

The Town's Urban Zoning By-law includes regulations such as minimum setbacks from lot lines, minimum distance separation between building walls and maximum building heights to mitigate the impact of built forms on adjacent residential lots. For the forms of ARUs now permitted by the Planning Act, the Town's existing regulations will be reviewed to consider impacts on adjacent properties such as privacy and overlook, and sun and shadow impacts.

Regulations that other municipalities use to limit the impact of ARUs on adjacent lots include limiting the size of ARUs and/or establishing special setbacks for ARUs. For ARUs within an accessory building or structure, examples of regulations include height limits, decks and balconies restrictions, and angular plane regulations to control building massing.

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### *Health and Safety*

Health and safety for ARUs will continue to be ensured through the requirement of a building permit for the construction of an ARU. The building permit process includes review of plans to ensure an ARU meets the Ontario Building and Fire Codes, and inspection of the unit after construction completion by Town Building Staff to approve the unit for occupancy.

Access for fire and emergency services to ARUs is also an important consideration. The Ontario Building Code requires access for fire department equipment to each building from a street, private roadway or yard. Through the municipal scan, other municipalities typically require a minimum 1.2 metre wide unobstructed pedestrian path of travel from the street to the entrance of ARUs. Additionally, the travel distance between the street to the entrances of ARUs must not exceed the reach of firefighting equipment.

Staff, in consultation with Milton Fire and Rescue Services and Halton Region Emergency Medical Services, will review fire and emergency access requirements for ARUs.

### *Housing Policy*

While regulations for ARUs are needed to ensure health and safety, and manage other concerns such as compatibility with the existing neighbourhood, the role of ARUs in contributing to housing options should be considered as part of the Town's housing strategy. Facilitating ARUs will increase the supply of rental housing in the Town and provide housing options for aging-in-place and multi-generational living, which contributes to housing affordability. ARUs may also support the creation of affordable housing and contribute to the Town's affordable housing targets.

### **Review of Rural Area ARU Policies and Regulations**

Although the Bill 23 Planning Act "as-of-right" provisions for additional residential units (ARUs) do not apply to rural areas, Staff have received inquiries expressing interest for additional residential units in Milton's Rural Area. The majority of Milton's Rural Area consists of significant environmental lands and agricultural areas within the Greenbelt and the Niagara Escarpment. The Greenbelt Plan and the Niagara Escarpment Plan are provincial plans that govern land use within these areas, including policies regarding ARUs.

The majority of the Greenbelt within the Town is identified as part of the Greenbelt's Natural Heritage System. The Greenbelt Plan does not permit an ARU within its Natural Heritage System. Outside of the Natural Heritage System, within the Greenbelt, one ARU is permitted within a detached house or within an accessory structure that existed on July 1, 2017 on the same lot.

On Niagara Escarpment lands, the Niagara Escarpment Plan (NEP) permits one ARU within a detached house on lands designated Escarpment Rural Area and Escarpment Recreation Area, subject to the NEP's General Development Criteria. An ARU is not



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permitted within an accessory building or structure, and not permitted on lands designated Escarpment Natural Area, Escarpment Protection Area and Mineral Resource Extraction Area.

The Town's policies and regulations are required to be in accordance with provincial plans and policies including the Greenbelt Plan and the Niagara Escarpment Plan. For areas where an ARU is not prohibited under a provincial plan, Staff will undertake a review to examine if the Town's ARU policies and regulations may be updated to better address the needs of the rural community. Factors such as private servicing and farm land protection will be taken into consideration.

As part of the public consultation process, Staff will consult with rural residents for a better understanding of the need and demand for ARUs in Milton's rural communities. Staff will also consult with the Province, Halton Region and other agencies regarding ARU policies and regulations in Milton's Rural Area.

For a more detailed summary of ARU policies within provincial policies and plans, including the Greenbelt Plan and the Niagara Escarpment Plan, please see the policy review in Appendix B. A map showing the Greenbelt, including the Natural Heritage System, and the Niagara Escarpment is included on the last page of Appendix B.

### Next Steps, Consultation Strategy and Timeline

Should Council approve the recommendations of this report, Staff will initiate consultations with the public and stakeholders, and draft updates for the Town's Official Plan policies, Zoning By-law regulations and any other required regulatory by-laws.

For consultation with the public, a webpage for this project will be set up on the "Let's Talk Milton" community engagement platform. This background report and additional information will be posted on the webpage to inform the public. An online survey will be conducted to better understand the public's views, opinions and concerns about additional residential units (ARUs). Additionally, Staff will hold a Public Information Centre to present information, answer questions and seek feedback. Throughout the consultation process, the public will be welcome to provide comments through the "Let's Talk Milton" website or by directly contacting Staff.

A Technical Advisory Committee has been formed consisting of various Town departments to discuss ARU policies and regulations. Agencies such as the Province, the Niagara Escarpment Commission, Halton Region, the Conservation Authorities, the School Boards, and the local building industry and land development association (BILD) will be consulted about proposed ARU policies and regulations.

Staff will draft policy and regulation updates, taking into consideration the feedback from consultations with the public and stakeholders. The draft of the policy and regulation updates will be presented to Council and the public for consideration during a Public Meeting. The draft policy and regulation updates may be revised in consideration of





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## Discussion

comments received during the Public Meeting. A final draft of the policy and regulation updates will be recommended to Council for adoption.

The timeline for this project is planned as follows:

- Consultation Process: March to May 2023
- Public Information Centre: April 2023
- Public Meeting: May 2023
- Recommendation for Adoption: July 2023

## Financial Impact

ARU's were already largely exempt from development charges under the Development Charges Act, therefore any additional volume of new units created due to the newly allowed "as of right" residential units will result in additional exemption costs to the Town. The exemptions for secondary dwelling units were already a growing cost for the Town amounting to \$2.59 million of the \$3.26 million in total exemptions in 2021, as reported in CORS-030-22. In 2022 the cost for secondary unit exemptions amounted to \$2.24 million. As required by legislation, this cost must be funded from a source other than development charges, and as such the Town utilizes property taxes to fund exemptions.

Once created, the new additional dwelling units will potentially increase the value of the property and any such additional assessment value may translate to incremental property tax revenue for the Town. Town services will be required for the additional population growth that is provided for through the new units, and as such there will be a related incremental operating cost to the Town as well.

Respectfully submitted,

Jill Hogan  
Commissioner, Development Services

For questions, please contact:  
Wendy Chen, Policy Planner

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## Attachments

Appendix A: Additional Residential Units - Illustrative Examples

Appendix B: Additional Residential Units - Policy Review

Appendix C: Additional Residential Units - Municipal Best Practices

Appendix D: Additional Residential Units - Municipal Scan Analysis Tables

Approved by CAO  
Andrew M. Siltala  
Chief Administrative Officer

## Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.