

Additional Residential Units - Policy Review

Provincial Legislations and Policies

The Planning Act

The Planning Act (the Act) is the provincial legislation that sets out the framework and rules for land use planning in Ontario. It describes how land uses may be controlled, and who may control them.

In 1994, the provincial government at the time enacted Bill 120 which disallowed municipalities from prohibiting second residential units within detached houses, semi-detached houses and rowhouses. Shortly after in 1995, the incoming provincial government reversed those restrictions and gave municipalities the right to prohibit second units in zoning by-laws again. To address the legacy of Bill 120, Section 76 of the current Act and Ontario Regulation 384/94 provide provisions and regulations for houses with two residential units used or occupied by November 16, 1995 or had a building permit issued by May 22, 1996.

In 2011, through Bill 140, the Act was again revised to require municipalities to permit a second residential unit in a detached house, semi-detached house or rowhouse, or in an ancillary building or structure. In 2016, the Act was further amended to encourage the creation and legalization of second units. In 2019, through Bill 108, the Act was changed to require municipalities to authorize the use of two residential units in a detached house, semi-detached house or rowhouse and the use of a residential unit in an ancillary building or structure, for a total of three units per lot. The Act, as amended through Bill 108, did not distinguish between additional residential units on urban versus rural land. To support the implementation of additional residential units under the Act, Ontario Regulation 299/19 was established.

Most recently, on November 28, 2022, Bill 23, the More Homes Built Faster Act, was passed. Bill 23 further amended additional residential unit provisions in the Act. The Act now states:

- No official plan or zoning by-law may prohibit the use of:
 - a) three residential units in a detached house, semi-detached house or rowhouse, if no ancillary building or structure contains any residential units;
 - b) two residential units in a detached house, semi-detached house or rowhouse, if all ancillary buildings and structures cumulatively contain no more than one residential unit; or
 - c) one residential unit in an ancillary building or structure, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other ancillary building or structure contains any residential units.
- Additional residential units are only permitted as-of-right on a “parcel of urban residential land”, which is a parcel of land that is within an area of settlement

on which residential use, other than ancillary residential use, is permitted by by-law and that is served by publicly owned sewage works and a municipal drinking water system.

- No official plan or zoning by-law may require more than one parking space to be provided for each residential unit as described above, which includes the primary residential unit and the two additional residential units.
- A zoning by-law may not regulate the minimum floor area of a residential unit as described above, which includes the primary residential unit and the two additional residential units.
- Official plan policies and parts of by-laws authorizing the use of the additional residential units as described above cannot be appealed to the Ontario Land Tribunal.
- A by-law requiring the conveyance of land for park or other public recreational purposes does not apply to additional residential units.

The Planning Act defines “residential unit” to mean “a unit consisting of a self-contained set of rooms located in a building or structure that is used or intended for use as residential premises and contains kitchen and bathroom facilities that are intended for the use of the unit only.”

The Planning Act does not include a definition for “rowhouse”. The Statistics Canada Census definition for rowhouse is “one of three or more dwellings joined side by side (or occasionally side to back), such as a townhouse or garden home, but not having any other dwellings either above or below. Townhouses attached to a high-rise building are also classified as rowhouses.” Staff will consult with the Province regarding the definition of rowhouse as it applies to additional residential units. Ontario Regulation 299/19 regarding additional residential units, as updated on December 23, 2022, regulates that:

- Each additional residential unit shall have one parking space that is provided and maintained for the sole use of the occupant of the additional residential unit, subject to the following:
 - Where a zoning by-law does not require a parking space to be provided for the primary residential unit, a parking space is not required to be provided for either additional residential unit.
- A zoning by-law that requires no parking space be provided for one or both additional residential units prevails over the above regulations.
- A parking space that is provided for an additional residential unit may be a tandem parking space.
- An additional residential unit may be occupied by any person regardless of whether,
 - the person who occupies the additional residential unit is related to the person who occupies the primary residential unit, and
 - the person who occupies either the primary or additional residential unit is the owner of the lot.

- Where the use of additional residential units is authorized, an additional residential unit is permitted regardless of the date of construction of the primary residential unit.

Distinct from additional residential units, the Planning Act has provisions for garden suites. A “garden suite” is defined in the Act as a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable. Municipal council may pass a temporary use by-law authorizing the temporary use of a garden suite up to 20 years, after which extensions of not more than three years each may be further granted.

The Town’s Official Plan policies and Zoning By-law regulations regarding additional residential units will be amended in accordance with the Planning Act as amended by Bill 23. It should be noted that the Bill 23 Planning Act as-of-right permissions for additional residential units only apply to urban areas. The Planning Act does not require permissions for additional residential units in rural areas.

Provincial Policy Statement

The Provincial Policy Statement (PPS, 2020) provides policy direction on matters of provincial interest related to land use planning and development.

The PPS provides the following policy direction regarding additional residential units to support building strong healthy communities and the provision of housing in the province:

- Healthy, liveable and safe communities are sustained by accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons)...
- Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by permitting and facilitating all types of residential intensification, including additional residential units, and redevelopment...

The PPS land use framework identifies functions for settlement areas and rural areas. Settlement areas, such as urban areas and rural settlement areas such as Hamlets, shall be the focus of growth and development. With the exception of rural settlement areas, where an appropriate range and mix of housing should be accommodated, rural areas shall leverage rural assets to support the economic success of the province and protect the environment as a foundation for a sustainable economy. An example of rural assets are lands protected for long-term agricultural use, known as Prime Agricultural Areas.

The PPS also states the importance of protecting public health and safety. Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards.

The Planning Act requires that decisions affecting planning matters “shall be consistent with” the PPS.

Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe (the Growth Plan, August 2020 consolidation) builds on the Provincial Policy Statement (PPS) to establish a more detailed land use planning framework for the Greater Golden Horseshoe (GGH).

The Growth Plan provides policies to guide and direct the anticipated growth. Similar to the PPS, the Growth Plan directs municipalities to support housing choice, including additional residential units and affordable housing, to meet projected needs of current and future residents; accommodate people at all stages of life; and accommodate the needs of all household sizes and incomes. Additional residential units serve to support the growth management goals and the minimum intensification and density targets of the Growth Plan.

The Growth Plan provides more detailed policies regarding settlement areas and rural areas. Municipalities are required to designate Prime Agricultural Areas and Natural Heritage Systems in accordance with mapping identified by the Province and the policies of the Growth Plan.

As legislated by the Places to Growth Act, municipal official plans must conform to the Growth Plan.

As part of its housing-focused initiative, the Province has proposed to integrate the Growth Plan and the Provincial Policy Statement into a new province-wide planning policy instrument to create a streamlined land use planning policy framework. At the time of writing, no draft new Provincial policy document(s) have yet been released. Staff will continue to monitor Ontario's evolving planning framework.

Greenbelt Plan

The Greenbelt Plan, together with the Oak Ridges Moraine Conservation Plan (ORMCP) and the Niagara Escarpment Plan (NEP), identifies lands where urbanization should not occur to provide permanent protection to the agricultural land base and the ecological and hydrological features, areas and functions occurring on this landscape. The Greenbelt Plan applies to extensive areas of the Town's rural and agricultural lands. The majority of the Greenbelt Area within the Town is identified as part of the Natural Heritage System.

The Greenbelt Plan was updated in 2017 to specify that one additional residential unit is permitted within a single dwelling or within an existing accessory structure on the same lot, provided that the land is located outside of the Natural Heritage System (NHS). Since the revised Greenbelt Plan came into effect on July 1, 2017, an additional dwelling unit is only permitted within an accessory building that existed on that date.

Provided that lands are outside of the NHS, Hamlets within the Greenbelt Area are not subject to specific policies for additional residential units. The Greenbelt Plan states that Hamlets are subject to the policies of the Growth Plan and local official plans; and limited growth is permitted through infill and intensification subject to appropriate water and sewage services.

As legislated by the Greenbelt Act, municipal official plans must conform to the Greenbelt Plan.

Niagara Escarpment Plan

The Niagara Escarpment Plan (NEP) regulates land uses to protect the environmentally significant Niagara Escarpment landform feature. A section of land northwest of the Town's urban area is regulated under the NEP.

The NEP includes land use designations and development criteria that are applicable to the NEP regulated area of the Town. Secondary dwelling units are permitted on lands designated Escarpment Rural Area and Escarpment Recreation Area, subject to the NEP's General Development Criteria. On lands designated Minor Urban Centre, such as portions of Campbellville, the range of permitted uses are those in an approved official plan and/or secondary plan not in conflict with the NEP. Secondary dwelling units are not permitted on lands designated Escarpment Natural Area, Escarpment Protection Area and Mineral Resource Extraction Area.

The General Development Criteria for secondary dwelling units state:

- a single secondary dwelling unit may be permitted on an existing lot of record;
- notwithstanding the above, a secondary dwelling unit shall not be permitted on an existing lot of record where there is more than one single dwelling, including any dwelling approved under Part 2.2.7;
- the secondary dwelling unit shall be contained entirely within a single dwelling or in an addition to a single dwelling and shall not be permitted in a detached accessory facility;
- the floor area of a secondary dwelling unit shall be subordinate in size to the single dwelling;
- secondary dwelling units shall not be permitted in a group home or a single dwelling containing a bed and breakfast; and
- a home occupation or home industry shall not be permitted within a secondary dwelling unit.
- Part 2.2.7 provides provisions that allow the implementing authority (the Niagara Escarpment Commission) to approve a second single dwelling on each existing lot of record in the Escarpment Natural, Escarpment Protection and Escarpment Rural Area designations if a second single dwelling is the only viable way to conserve the heritage attributes of an existing single dwelling.

Mobile or portable dwelling unit(s) accessory to agricultural uses are permitted in the Escarpment Protection Area and Escarpment Rural Area in accordance with the appropriate development criteria.

The NEP permits municipal official plans and secondary plans to set policies that are more stringent than the requirements of the NEP unless doing so would conflict with the NEP. All lands identified by the NEP within Milton are within the NEP's area of development control. Within the development control areas, local zoning by-laws have

no effect and a development permit issued by the Niagara Escarpment Commission is required for any development.

Region of Halton Official Plan Policies

Regional Official Plan Amendment 49 (ROPA 49), which was part of Halton Region's municipal comprehensive review to update the Regional Official Plan (ROP) to the 2051 planning horizon, was approved with modification by the Province on November 04, 2022. ROPA 49 included updates to policies regarding additional residential units to align with the 2019 Planning Act as amended through Bill 108.

ROPA 49 included the following policy updates regarding additional residential units:

- Require Local Official Plans and Zoning By-laws to permit additional residential units in new and existing residential development, provided that health, safety and other reasonable standards or criteria (e.g. the provision of parking or adequacy of services) are met, including:
 - a) the use of two residential units in a detached house, semi-detached house or rowhouse; and
 - b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.
- Ensure that the standards or criteria identified in a Local Official Plan or Zoning By-law shall not preclude or prohibit the establishment of additional residential units as provided for in Provincial legislation, policy or plans.

The ROP has not been updated to reflect the latest changes to the Planning Act as amended through Bill 23. Bill 23 also included provisions in the Planning Act that removes planning responsibilities from the Regional Municipality of Halton, although those provisions are not yet in effect. If and when those provisions come into effect, the Region will no longer have an official plan.

Town of Milton Official Plan Policies

Housing and Residential Intensification

The Housing section and Residential Intensification subsection of the Town's Official Plan (OP) directs present and future demand for housing in Milton be accommodated, in part, through intensification including modification of existing dwellings or construction of new dwellings to include a second residential unit subject to Section B.3.2.3.9 of the OP. The Residential Intensification policies apply in the Urban and Hamlet Areas.

Urban Land Use

Section B.3.2.3.9 permits second residential units within existing single-detached, semi-detached, row houses, and in accessory structures, as-of-right in the Residential Area designation (within the Urban Area), provided that all of the following criteria can be met:

- the use shall be located in an existing single-detached, semi-detached, row houses, and in accessory structures where adequate municipal piped water and wastewater services are available and connected;
- the site is accessible to public transit;
- there will be no significant changes to the external character of the building or property;
- all of the requirements of the Zoning By-law, including the provision of adequate parking, of the Ontario Building Code, of the Property Standards By-law and other relevant municipal and provincial regulations can be satisfied; and,
- the existing dwelling is not within the Regulatory Flood Plain.

Section B.3.2.3.10 provides that second residential units shall not be subject to the density provisions of the OP. As a condition of approval, the Town shall require that dwelling units containing a second residential unit be registered with the Town in accordance with the provisions of the Municipal Act.

Secondary Plans

In addition to second residential units permitted under Section B.3.2.3.9 of the OP, the Bristol Survey, the Sherwood Survey, the Boyne Survey and the Milton Education Village (MEV) Secondary Plans also permit coach houses within Residential Areas. In Bristol and Sherwood, coach houses are permitted on hybrid roads for dwelling units which do not front on the hybrid road. In the MEV and in Boyne, coach houses are permitted on public lanes or service roads. Additionally in Boyne, they are also permitted on condominium lanes.

Coach houses are additional residential units located in a separate building on a lot, usually part of a garage. Hybrid roads are public roads which have dwellings fronting on one side and the rear yards of dwellings, including garages, on the other side.

The Trafalgar Secondary Plan and the draft Agerton and Britannia Secondary Plans do not include any additional or amending policies for additional residential units.

Hamlets

Although the Residential Intensification policies of the OP apply to Hamlets, the second residential unit policies as set out in Section B.3.2.3.9 only applies to the Residential Area designation within the Urban Area. The land use policies for Hamlets do not provide permissions for second residential units. The Hamlet Residential Area permits single detached dwelling and existing semi-detached and duplex dwellings. The Hamlets are not served by municipal sewer and water infrastructure.

Rural Lands

The majority of the areas regulated under the Niagara Escarpment Plan (NEP) within the Town is designated Regional Natural Heritage System in the Town's OP. Second dwelling units are not permitted in the Regional Natural Heritage System designation.

Outside of the lands designated Regional Natural Heritage System and Hamlet Area, the majority of the Town's remaining rural lands are designated Agricultural Area. Lands in the Agricultural Area should be used predominantly for agricultural purposes. One second dwelling accessory to an agricultural operation for the accommodation of full-time farm labour is permitted subject to an amendment to the Zoning By-law in accordance with Section 4.1.1.11 of the OP regarding Accessory Farm Dwelling.

Town of Milton Zoning By-law Regulations

Urban Area - Zoning By-law 016-2014

Within the Urban Area, an accessory dwelling unit is permitted in a single detached dwelling or a semi-link dwelling only, provided that:

- Only 1 accessory dwelling unit shall be permitted per lot and shall be located within the main dwelling unit;
- A minimum of 1 parking space per accessory dwelling unit is provided in addition to the required parking for the main dwelling unit;
- The dwelling must be on full municipal water and wastewater services; and,
- The accessory dwelling unit shall not exceed a maximum size of 85m².

An accessory dwelling unit is defined as a separate and complete dwelling unit which is subordinate to, and incidental to, the principal dwelling unit. A semi-link dwelling means two detached dwellings which are only attached below grade, exclusive of any accessory dwelling unit.

For single detached and semi-link dwellings, a minimum of two parking spaces are required per unit.

In the Low Density zones, duplex dwellings in addition to detached and semi-detached dwellings are permitted. The Medium Density I (RMD1) zone permits a range of housing types including duplex and triplex dwellings. The RMD1 zone is the most common parent zoning in the residential areas within the Bristol, Sherwood and Boyne Secondary Plan Areas.

A duplex dwelling is defined as a building divided horizontally above grade into two dwelling units. A triplex dwelling is defined as a building divided horizontally into three dwelling units.

Although there are policies in the Bristol, the Sherwood, the Boyne and the MEV Secondary Plans permitting coach houses as an additional residential unit in a detached accessory building, there are no zoning by-laws that implement these policies.

Rural Area - Zoning By-law 144-2003

The Zoning By-law applicable to the Town's rural areas permit an accessory apartment in a single detached dwelling only, provided that:

- Only 1 accessory apartment unit shall be permitted per lot and shall be located within the main dwelling unit;
- A minimum of 1 parking space per accessory apartment unit is provided;
- The dwelling must be on full municipal water and wastewater services; and,
- The accessory apartment shall not exceed a maximum size of the 65m².

An accessory apartment is defined as a separate and complete dwelling unit that is located within a detached dwelling and which is subordinate or incidental to the principal dwelling.

THIS IS SCHEDULE '1A' TO OFFICIAL
PLAN AMENDMENT NO. 31

TOWN OF MILTON OFFICIAL PLAN

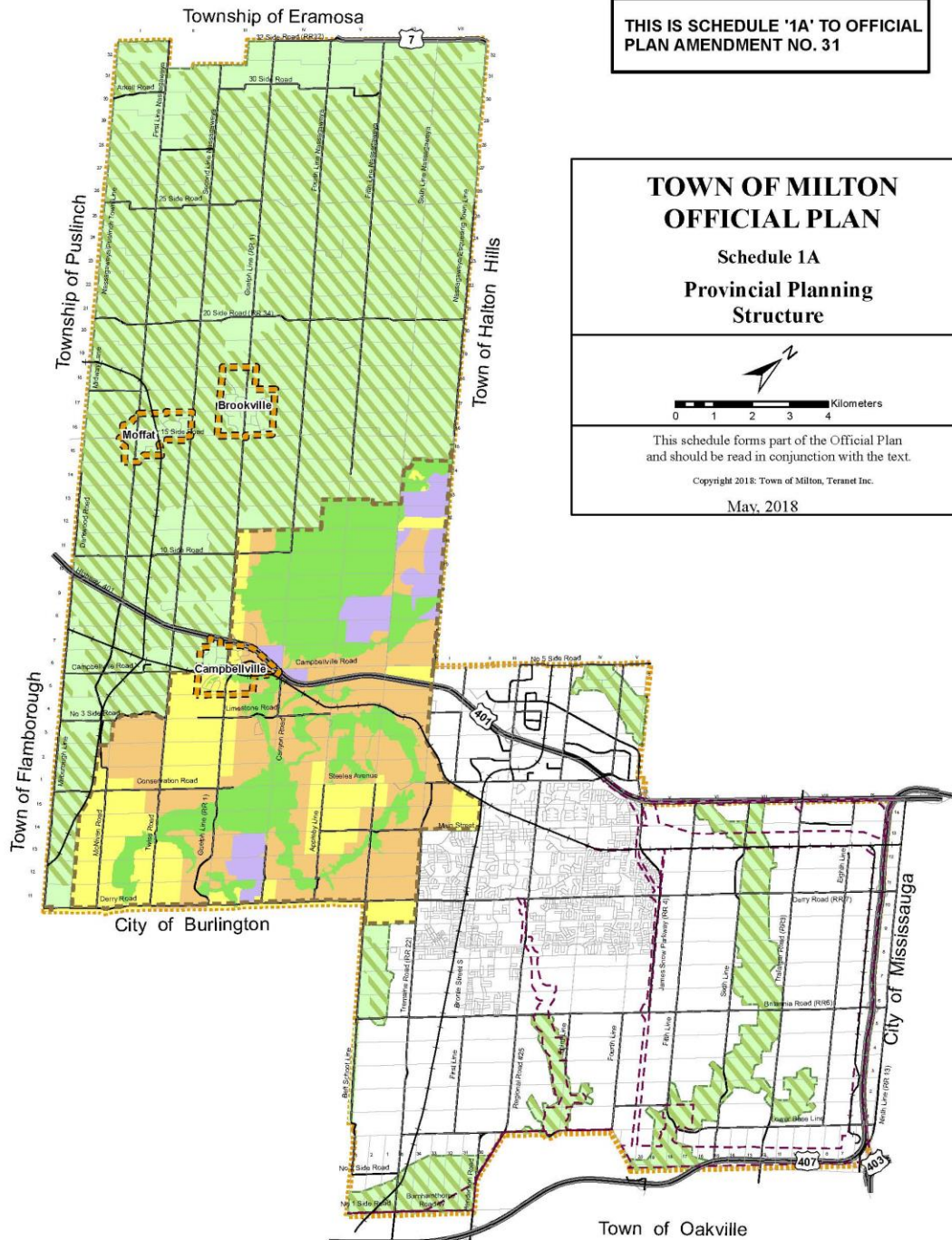
Schedule 1A Provincial Planning Structure



This schedule forms part of the Official Plan
and should be read in conjunction with the text.

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May, 2018



- Rail
- Proposed Major Arterial
- Highway
- Major Road
- Lot and Concession Line
- Hamlet
- Parkway Belt West Plan Boundary
- Municipal Boundary

- Niagara Escarpment Plan Boundary
- Escarpment Natural Area
- Escarpment Protection Area
- Escarpment Rural Area
- Escarpment Mineral Resource Extraction Area
- Greenbelt Plan Natural Heritage System
- Greenbelt Protected Countryside Area