

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW NO. (2021)

Being a By-law to amend Zoning By-law 1136(1987), as amended with respect to second dwelling units in the Town of Pelham.

Town of Pelham

File No. AM-04-2020

WHEREAS, Section 34 of the *Planning Act*, RSO 1990, as amended provides that the governing body of a municipal corporation may pass By-laws to regulate the use of lands and the character, location and use of buildings and structures;

AND WHEREAS, the Council of the Corporation of the Town of Pelham has initiated as application to amend By-Law No. 1136 (1987) otherwise known as the Zoning By-law, insofar as is necessary to establish provisions that apply to Second Dwelling Units in the Town of Pelham;

AND WHEREAS, the Council of the Corporation of the Town of Pelham conducted a public hearing in regard to this application, as required by Section 34(12) of the *Planning Act*, R.S.O. 1990, Chap. P. 13, as amended;

AND WHEREAS, the Council of the Corporation of the Town of Pelham deems it advisable to amend Zoning By-law 1136 (1987), as otherwise amended, with respect to the above described lands, and under the provisions of the *Planning Act* has the authority to do so;

NOW THEREFORE the Council of the Corporation of the Town of Pelham enacts as follows:

1. **THAT** Section 5 is amended by adding the following new definition:

“5.193 SECOND DWELLING UNIT” means a Second Dwelling Unit on a lot with a principle dwelling that is created through converting part of, or adding on to the existing dwelling that maintains an independent entrance, or within a detached accessory building. Second Dwelling Units are also referred to as secondary suites, basement apartments, accessory apartments, granny flats, in-law apartments, or nanny suites.”

2. **THAT** Section 6.1 (c) is deleted and replaced with the following:

“(c) **“MAXIMUM HEIGHT**

Except as otherwise provided herein, no accessory residential building or structure shall exceed 4.75 m (15.58 ft) in height.”

3. **THAT** Section 6.10 (a) Lot Requirements - Dwellings is deleted.

4. **THAT** Section 6.16 (c) Parking Area Surface is amended by adding the following new clauses:

“iii. In Residential zones, the maximum width of a surface devoted to parking may not exceed the exterior width of an attached garage.

iv. Notwithstanding Subsection 6.16 c) iii), on a lot having an attached garage less than 5 metres in width, the driveway

may extend beyond the width of the garage toward the side lot line to a maximum width of 5 metres and no closer than 0.6 metres to the side lot line, nearest to the garage;”

5. **THAT** Section 6.2, Dwelling Units Below Grade is deleted in its entirety and replaced with the following:

“6.2 SECOND DWELLING UNITS

1. Two (2) Second Dwelling Units are permitted on a lot in the Residential Village 1 (RV1) zone, Residential Village 2 (RV2) zone, Residential Multiple Village 1 (RMV1) zone, Residential 1 (R1) zone, Residential 2 (R2) zone, Residential 3 (R3) zone and Residential Multiple 1 (RM1) zone and shall comply with all other provisions of this By-law.
2. Two (2) Second Dwelling Units are permitted on a lot in the Agricultural (A) and Special Rural (SR) zones and shall comply with all other provisions of this By-law. These units must be located outside of the Greenbelt Natural Heritage System.
3. A Second Dwelling Unit shall be a self-contained dwelling unit with bathroom, kitchen and sleeping facilities that are separate from those of the principle dwelling on the same lot. The Second Dwelling Unit can be contained within the principle dwelling or within a detached accessory building on the same lot as the principle dwelling.
4. In Residential zones, a Second Dwelling Unit shall have a maximum floor area does not exceed 74.3 m² (800sqft).
5. In the Agricultural (A) Zone and Special Rural (SR) Zone, a Second Dwelling Unit shall have a maximum floor area does not exceed 93 m² (1,000sqft).
6. A maximum of one entrance is permitted to face a street, inclusive of the principle dwelling. The entrance to a Second Dwelling Unit must be separate from the entrance provided for the principle dwelling:
 - i. For Second Dwelling Units that are contained within or attached to the principle dwelling, the separate entrance may be accessed directly from the outside or from a vestibule, common hallway or stairway inside the building.
 - ii. Where the only entrance to a Second Dwelling Unit is provided from the rear yard or side yard, the entrance must be accessed by a continuous, unobstructed path of travel of at least 1 metre wide between the front wall of the building and the side lot line.
7. A minimum of one (1) on-site parking space is required for each Second Dwelling Unit, in addition to the parking requirements for the principle dwelling. Parking shall be in accordance with Section 6.16 of this By-law.
8. If located within the principle dwelling, the Second Dwelling Unit must meet the requirements for a dwelling in the applicable zone category.
9. If the Second Dwelling Unit is in an accessory structure, and not connected to the principle dwelling, the Second

Dwelling Unit must meet the requirements for accessory structures on the property in accordance with Section 6.1 of By-Law 1136 (1987).”

6. **THAT** Section 7.7 Requirements for Buildings and Structures Accessory to Dwellings, paragraph (d) is deleted in its entirety and replaced with the following:

“(d) Maximum Building Height 7.2 m (23.62 ft)”

7. **THAT** Section 7.7 Requirements for Buildings and Structure Accessory to Dwellings is amended by adding a new paragraph (f) as follows:

“(f) The maximum distance a Second Dwelling Unit is permitted from the closest portion of the principle dwelling located on a property is 40m (131.2 ft) unless the Second Dwelling Unit is located in an existing building.”

8. **THAT** this Bylaw shall come into effect and force from and after the date of passing thereof, pursuant to Section 34(21) and 34(30) of the Planning Act, RSO 1990, as amended.

ENACTED, SIGNED AND SEALED THIS
____ DAY OF _____, 2021 A.D.

MAYOR MARVIN JUNKIN

CLERK HOLLY WILLFORD

AMENDMENT NO. XX
TO THE
OFFICIAL PLAN (2014)
FOR THE
CORPORATION OF THE TOWN OF PELHAM

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PART “A” – THE PREAMBLE

SECTION 1

TITLE AND COMPONENTS

This document was approved in accordance with Section 17 and 21 of the *Planning Act, R.S.O. 1990*, as amended and shall be known as Amendment No. XX to the Official Plan adopted by By-law No. 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014, for the Town of Pelham Planning Area.

Part “A”, the Preamble does not constitute part of this amendment.

Part “B”, the Amendment, consisting of the following text constitutes Amendment No. XX to the Official Plan adopted by By-law 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014 for the Town of Pelham Planning Area.

SECTION 2

PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to amend Sections B1.1.2(b), B1.1.3(e), B1.1.4, B1.1.9(h), B1.7.3.2(a(v)), B1.7.7.3.1 (a(ii)), B1.7.7.4.1(a(iii)), B1.7.8.3.1(b(xi)), B1.7.8.4.1(b(xi)), B2.1.2, B2.2.2, B2.1.3.5 and Appendix F – Definitions (Residential Intensification (e)) of the Town of Pelham Official Plan to implement recommendations on Second Dwelling Units in the Town with the goal to achieve Council’s strategic plan goal.

SECTION 3

LOCATION OF THE AMENDMENT

The lands that are subject to this Amendment are all lands within the Town of Pelham.

SECTION 4

BASIS OF THE AMENDMENT

1. The *Planning Act, R.S.O. 1990*, as amended, provides that amendments may be made to the Official Plan. Policies of the Official Plan have been considered in the preparation of this Amendment and the following factors:
 - i. The policies will ensure compatibility with the surrounding land uses.
 - ii. This Amendment is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe and the Region of Niagara Official Plan.
2. The Provincial government has legislated that municipalities develop and implement Official Plan policies and Zoning By-law provisions in order to allow additional dwellings including second dwelling units as accessory to primary residential dwellings.
3. The proposed amendments will update the Official Plan to ensure conformity with the recent Provincial legislative updates in Bill 108, *More Homes, More Choice Act, 2019*. This Official Plan update will assist staff with implementing opportunities for a range and mix of housing options, as mandated by the Provincial Policy Statement (2020).
4. The overall purpose of this Provincial legislation is to provide additional affordable housing opportunities, help homeowners with mortgage payments, and to support the flexible housing needs of youth, young families and seniors. As such, in supporting the aims of this Provincial Legislation, allowing Second Dwelling Units will provide important community benefits within the Town of Pelham.
5. The provision of Second Dwelling Units will also respond to a need identified by the local community and the desire to have Second Dwelling Units to provide housing choice and flexibility.
6. It is not the intent to permit the severance of second dwelling units in areas in the agricultural area as the creation of new lots for residential uses is not permitted.

SECTION 5

IMPLEMENTATION AND INTERPRETATION

The relevant policies of the Official Plan adopted by By-law No. 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014, of the Town of Pelham Planning Area shall apply to the implementation and interpretation of this Amendment.

PART “B” – THE AMENDMENT

The Official Plan adopted by By-law No. 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014, for the Pelham Planning Area is hereby amended by:

1. Deleting Section B1.1.2(b) and replacing it with the following:
 - b) Second Dwelling Units in single-detached, semi-detached, townhouse and multiple dwellings subject to Policy B1.1.4;
2. Deleting Section B1.1.3(e) and replacing it with the following:
 - e) The creation of Second Dwelling Units -- within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of Second Dwelling Units shall occur in accordance with Policy B1.1.4;
3. Deleting Section B.1.1.4 and replacing it with the following:

Second Dwelling Units

Second Dwelling Units may be permitted in single detached, semi-detached, townhouse and multiple dwellings as well as in detached accessory buildings in the Urban Living Area designation in the areas identified on Schedule A1 to this Official Plan, without the need for a Zoning By-law amendment provided that:

- a) Second Dwelling Units will comply with the Ontario Building and Fire Codes as well the Town's Zoning By-law. A building permit will be required to obtain permission for a second dwelling unit;
- b) The floor area of the Second Dwelling Units are less than, the gross floor area of the principle residential unit;
- c) Applicants who request a minor variance to increase the size of a Second Dwelling Unit should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.
- d) Adequate parking is available on the lot for the principle dwelling and second dwelling units in compliance with the Zoning By-law;
- e) The second dwelling units are designed and located to maintain the external appearance and character of a principle dwelling unit as viewed from the public street; and,
- f) Second Dwelling Units - will be included in the Town's Intensification targets.

4. Deleting Section B1.1.9(h) and replacing it with the following:
 - h) Identify how many Second Dwelling Units have been legally created in accordance with Policy B1.1.4 of this Plan.
5. By deleting Section B1.7.3.2(a(v)) and replacing it with the following:
 - v) Encouraging the development of Second Dwelling Units.
6. Deleting accessory apartments in Section B.1.7.7.3.1(a(ii)) and replacing it with the following:
 - ii) Second Dwelling Units;
7. Deleting accessory apartments in Section B1.7.7.4.1(a(iii)) and replacing it with the following:
 - iii) Second Dwelling Units;
8. Deleting accessory apartments in Section B1.7.8.3.1(b(xi)) and replacing it with the following:
 - xi) Second Dwelling Units;
9. Deleting accessory apartments in Section B1.7.8.4.1(b(xi)) and replacing it with the following:
 - xi) Second Dwelling Units;
10. By deleting Section B2.1.2 (b) in its entirety and replacing it with following:
 - b) Second Dwelling Units may be permitted in a single detached dwelling as well as in detached accessory buildings in the *Good General Agricultural* designation subject to policy B.1.2.3.5 of this Plan.
11. By deleting Section following B.1.2.3.5 and replacing with the following:

B.2.1.3.5 Second Dwelling Units

The establishment of one additional dwelling unit on a farm for farm help is permitted without the need for a Zoning By-law amendment subject that the second dwelling unit is:

- a) Is required for farm help;
- b) Will be located within the existing farm-building cluster;
- c) Building permit approval is required;

- d) Is provided with sewage and water services as required by the Regional Niagara Public Works Department;
- e) Will be designed and/or located to be compatible or otherwise blend in with the farm operation; and
- f) Is subject to site plan control.

Second dwelling units that are not required for farm help may be permitted without the need for a Zoning By-law amendment and provided that:

- a) Second Dwelling Units will comply with the Ontario Building and Fire Codes as well as Town's Zoning By-law. A building permit will be required to obtain permission for a second dwelling unit;
- b) The floor area of the Second Dwelling Unit is less than, the gross floor area of the principle residential unit;
- c) If the Second Dwelling Unit is located in a new detached accessory building, the unit must be located within the cluster of existing buildings on the property or a Second Dwelling unit may be permitted within an existing accessory building.
- d) If the principle dwelling is serviced by a septic system, verification must be provided that the septic system is capable of accommodating a Second Dwelling Unit through the existing system or expansion of the existing system to service both the Second Dwelling Unit and the principle dwelling. Should a new septic system be required to accommodate a Second Dwelling Unit, the new septic system shall not remove land from agricultural production.
- e) Applicants who request a minor variance to increase the size of a Second Dwelling Unit should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

In no case, shall any detached second dwelling unit established in accordance with this policy be subdivided or severed from the original parcel on which it was constructed.

12. By deleting Section B2.2.2(d) and replacing it with the following:

- d) Second Dwelling Units may be permitted in a single detached dwelling as well as in a detached accessory building in accordance with policy B2.2.9.

13. That a new Section B.2.2.9 is added to Section B.2.2 – Specialty Agricultural and the remaining sections be renumbered accordingly:

B.2.2.9 Second Dwelling Units

The establishment of one additional dwelling unit on a farm for farm help is permitted without the need for a Zoning By-law amendment subject that the second dwelling unit is:

- a) Is required for farm help;
- b) Will be located within the existing farm-building cluster;
- c) Is located outside of the Greenbelt Natural Heritage System
- d) Building permit approval is required;
- e) Is provided with sewage and water services as required by the Regional Niagara Public Works Department;
- f) Will be designed and/or located to be compatible or otherwise blend in with the farm operation; and
- g) Is subject to site plan control.

Second dwelling units that are not required for farm help may be permitted without the need for a Zoning By-law amendment and provided that:

- a) The second dwelling is located within an existing dwelling, or a new dwelling must have been authorized for use prior to the effective date of the Greenbelt Plan (December 16, 2004).
- b) Second dwelling units may also be permitted within existing accessory structures, provided it is located on the same lot as either an existing dwelling, or a new dwelling which was authorized for this use prior to the effective date of the Greenbelt Plan.
- c) Permitted second dwelling units in the Protected Countryside designation must be located outside of the Greenbelt Natural Heritage System.
- d) Second Dwelling Units will comply with the Ontario Building and Fire Codes as well as Town's Zoning By-law. A building permit will be required to obtain permission for a second dwelling unit;
- e) The floor area of the Second Dwelling Unit is less than, the gross floor area of the principle residential unit;
- f) If the Second Dwelling Unit is located in a detached accessory building, the unit must be located within the cluster of buildings on the property.

- g) If the principle dwelling is serviced by a septic system, verification must be provided that the septic system is capable of accommodating a Second Dwelling Unit through the existing system or expansion of the existing system to service both the Second Dwelling Unit and the principle dwelling. Should a new septic system be required to accommodate a Second Dwelling Unit, the new septic system shall not remove land from agricultural production.
- h) Applicants who request a minor variance to increase the size of a Second Dwelling Unit should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

14. Deleting and replacing the following of Appendix F – Definitions:

Residential Intensification

- e) The conversion or expansion of existing residential buildings to create new residential units or accommodation, including Second Dwelling Units and rooming houses. (PPS)