

SUBJECT: RECOMMENDATION REPORT:
Phase 3A of Markham's New Comprehensive Zoning By-law
Project – Rooming Houses, Short-Term Accommodations and
Second Suites
File No. PR 13 128340

PREPARED BY: Geoff Day, MCIP, RPP, ext. 3071
Senior Planner – Zoning & Special Projects

REVIEWED BY: Brad Roberts, ext. 2800
Manager – Zoning & Special Projects

RECOMMENDATION:

1. THAT the report dated May 14, 2018 titled, "RECOMMENDATION REPORT: Phase 3A of Markham's New Comprehensive Zoning Bylaw Project – Rooming Houses and Short-Term Accommodations and Second Suites – File No. PR 13 128340" be received;
2. THAT the Draft Zoning By-law to define Rooming Houses attached as Appendix 'A' be finalized and enacted without further notice;
3. THAT the proposed modifications to the 2014 City of Markham Official Plan to define and adopt criteria for Rooming Houses; and, to provide for, define and adopt criteria for Short-term Accommodations attached as Appendix 'B' be finalized and adopted without further notice;
4. THAT the Draft Licensing By-law for Short-term Accommodations attached as Appendix 'C' be finalized and enacted without further notice;
5. THAT the Draft Public Nuisance By-law attached as Appendix 'D' be finalized and enacted without further notice;
6. THAT the Draft Zoning By-law to permit and define Short-term Accommodations attached as Appendix 'E' be finalized and enacted without further notice;
7. THAT the Draft Registration By-law for Second Suites attached as Appendix 'F' be finalized and enacted without further notice;
8. THAT the Draft Zoning By-law to permit Second Suites attached as Appendix 'G' be finalized and enacted without further notice;
9. THAT Council approve an increase in the Fire Department full-time complement, for the hiring of one additional Fire Prevention Officer and associated vehicle;

10. THAT Council approve the proposed fee increases and new fees to be implemented through future amendments to By-laws 2012-137, as amended, and 111-98, as amended, as follows;

Department	Fee	Current	Proposed
Fire	Two Unit Residential Inspection Fee	\$339.50	\$1,800.00
	Two Unit Residential Registration Fee	<u>\$169.50</u>	<u>\$200.00</u>
		\$508.50	\$2,000.00
	Multiple Occupancy Residential Additional Re-inspection Fee	\$163.85/inspection	\$100.00/hour
By-Laws	Second Suite Property Inspection Fee	None	\$475.00
	Second Suite Additional Re-Inspection Fee	None	\$100.00/hour
By-Laws	Short-term Accommodation Company Fee	None	\$5,000.00 one-time fee per company +\$1/night booked
	Short-term Accommodation Licensing Fee	None	\$50.00/operator/year

11. THAT during the next Fee By-law update, the Building Department review and adjust their Accessory Apartment Fee as necessary, to achieve full administrative cost recovery, based on volume, in accordance with the Building Code Act;
12. THAT staff monitor the volumes and impacts of Second Suites and Short-term Accommodations and, if necessary, bring forward changes to staffing levels and/or fees to attempt to maintain full administrative cost recovery when deemed appropriate;
13. AND FURTHER THAT Staff be authorized to do all things necessary to give effect to this resolution.

PURPOSE:

This Report provides the Development Services Committee with final recommendations on Phase 3A of Markham's New Comprehensive Zoning By-law Project respecting Rooming Houses, Short-term Accommodations and Second Suites in Markham.

EXECUTIVE SUMMARY:

Phase 3A New Comprehensive Zoning By-law Project

In March 2016, Gladki Planning Associates (GPA) was retained by the City to complete work on Phase 3A of the New Comprehensive Zoning By-law Project, being a review of potential zoning and licensing regulations for Rooming Houses, Short-term Accommodations and Second Suites. Phase 3B, is the completion of the remaining work

on the New Comprehensive Zoning By-law, which began in Q4 2016 and is expected to be completed by Q2 2019.

Issue – Rooming Houses

Rooming houses are a permanent form of housing that contains habitable rooms, each containing either food preparation or bathroom facilities, but not both.

Markham's Official Plan contains policies with respect to shared housing and bed and breakfasts, however, there are no specific policies with respect to Rooming houses. Furthermore, a boarding or rooming house is not listed as a permitted use in any zoning designation in Markham, and only 27 of the 42 parent by-laws in the City have definitions of this use. Inclusion of new Official Plan policies and zoning definitions for rooming houses will assist in regulating these uses.

The proposed zoning by-law amendments would define, and not permit Rooming Houses in any zone within the City. Amendments to the Official Plan policies would direct Rooming House applications through the rezoning process, and would offer guidance to Council for consideration of a rezoning application. Licensing of Rooming Houses would be appropriate upon approval of a rezoning application to permit the use, however adoption of a licensing by-law is not recommended at this time.

Issue – Short-term Accommodations

A Short-term Accommodation is defined as any residential property rental within a proprietor's primary dwelling for a duration of less than 30 days and not more than 180 total days over the duration of the calendar year.

As of August 2017 Airbnb reported that there were 210 listings in Markham while the VRBO website has indicated 9 listings.

Markham's Official Plan does not contain policies for short-term accommodations. Short-term Accommodations are also not defined or permitted in any of Markham's zoning by-laws. Staff recommend inclusion of new Official Plan policies and zoning definitions, and use permissions for Short-term Accommodations will assist in regulating these uses under the Planning Act, and will support the implementation of a licensing by-law. Issues associated with Short-term Accommodations have primarily been with the behaviours of the renters or occupants, and these issues will primarily be addressed through Municipal Act regulations. Staff propose establishing a licensing regime and the creation of a "Public Nuisance By-law". This will enable Police and By-Law Enforcement officers to address the negative impacts on neighbourhoods associated with some Short-term Accommodation operations.

Issue - Second Suites

A second suite is a self-contained rental unit in a single-detached, semi-detached or townhouse. Many second suites are basement apartments. They have also been called granny flats, in-law suites and accessory apartments.

In 2012, The Strong Communities Through Affordable Housing Act (Bill 140) amended various sections of the Planning Act by requiring municipalities to establish Official Plan policies and zoning by-law provisions permitting Second Suites in detached, semi-detached and row houses [townhouses], as well as in ancillary structures. The effect of these legislative changes is to identify affordable housing as a matter of provincial interest with Second Suites playing a key role in the provision of affordable housing. In addition, the legislation requires municipalities to pass zoning by-laws to permit Second Suites in a single detached house, semi-detached houses and row houses [townhouses], either within the building or in an ancillary structure.

The Region of York's Official Plan requires local municipalities to adopt official plan policies and zoning by-law provisions that facilitate Second Suites. Section 4.1.2.6 of Markham's Official Plan states that "it is the policy of Council to support the diversification of housing tenure by providing for the establishment of Second Suites within existing and new permitted dwellings." However, Second Suites are not permitted in most of Markham's current zoning by-laws, except for areas of Cornell, Cathedral, Angus Glen, Markham Centre, or those that were legally in existence prior to November 16, 1995. The legislative requirements from Bill 140 (The Strong Communities through Affordable Housing Act) included amendments to the Planning Act in 2012, and these requirements are supported in the Region of York and Markham Official Plans.

Proposed amendment to the zoning by-laws would permit second suites in any single, semi, or townhouse unit, with the exception of those located in a Special Policy Area. Updates to the second suite registration by-law would modernize the regulations to reflect the change in zoning permissions. The proposed amendments are consistent with the strategy for implementing Second Suites in Markham approved in principle by Council on June 13, 2017. Staff are further proposing amendments to fee by-laws to ensure the long term sustainability of the administration of second suites.

Background:**Preliminary recommendations on Rooming Houses and Short-term Accommodations considered by (DSC) July 28, 2016**

A Special DSC meeting was held on July 28, 2016 to consider preliminary recommendations for addressing Rooming Houses and Short-term Accommodations in Markham. The City's consultant, Mr. John Gladki of Gladki Planning Associates (GPA) presented several options for consideration at the meeting.

Following the discussion on Rooming Houses and Short-term Accommodations at the July 28, 2016 meeting, DSC requested that Staff report back on potential areas in Markham

where Rooming Houses and Short-term Accommodations may be permitted, prior to holding an Open House on October 11, 2016. Staff presented further options and recommendations at the September 19, 2016 DSC meeting, including that rooming houses should not be permitted as of right in any zone, and that Short-term Accommodations could be permitted in any residential zone subject to appropriate licensing.

Open House held on October 11, 2016 to obtain public comment

An Open House and presentation was held on October 11, 2016 to obtain feedback on preliminary recommendations made by GPA for addressing Second Suites, Rooming Houses and Short-term Accommodations in Markham. The Open House was well attended with approximately 100 members of the public and 11 members of Council present. There was general support for approving Second Suites however, little to no support for supporting Rooming Houses or Short-term Accommodations anywhere in the City.

Statutory Public Meeting held December 6, 2016 to obtain public comment

A Statutory Public Meeting under the Planning Act was held on December 6, 2016 to obtain feedback on preliminary recommendations made by GPA and City Staff for addressing Rooming Houses, Short-term Accommodations and Second Suites in Markham. The public meeting was well attended with 14 members of the public speaking to the matters. In addition to this, 15 written submissions were received. The majority of comments received pertained to Rooming Houses and Short-term Accommodation, with most persons opposed to permitting these forms of accommodation anywhere in Markham.

Revised Recommendations presented to Council on June 13, 2017

On June 12, 2017, DSC reviewed Staff's strategy for addressing Second Suites, and refined recommendations on addressing Rooming Houses and Short-term Accommodations.

On June 13, 2017, Council's resolution approved in principle, the strategy for the implementation of Second Suites in Markham and directed Staff to prepare a final recommendation report and zoning by-law amendments for Second Suites. Staff were further directed to report back on proposed Official Plan and zoning amendments related to Short-term Accommodations and Rooming Houses.

Over the summer of 2017, GPA updated their preliminary recommendations on the matter of Rooming Houses and Short-term Accommodations, in response to comments received at the December 6, 2016 Public Meeting and DSC direction from the meeting of June 12, 2017.

An update report was sent to DSC on September 25, 2017 to provide additional information on the project and to request a further Statutory Public Meeting to be held since Official Plan amendments were now being proposed.

Statutory Public Meeting held on October 3, 2017

A Statutory Public Meeting was held on October 3, 2017 to obtain feedback on the proposed Official Plan Amendments made by GPA and City Staff for addressing Rooming Houses and Short-term Accommodations in Markham.

The resolution from DSC at the Statutory Public Meeting was to refer the Official Plan Amendments back to Staff for a comprehensive interim report.

Comprehensive Interim Report on Rooming Houses, Short-term Accommodations and Second Suites February 26, 2018

A further update report was sent to DSC on February 26, 2018 to provide additional detailed information on the project including a recommendation to incorporate new policies and definitions in the Official Plan and zoning by-laws regarding these land uses.

Special evening meeting of DSC March 27, 2018

A special evening meeting of DSC was held on March 27, 2018. City Staff presented criteria that was considered with respect to Rooming Houses and Second Suites and provided three options pertaining to Short-term Accommodations. The meeting was well attended with 20 deputations made by members of the public.

Comments on Rooming Houses

The consensus from DSC, the Public and through Staff's recommendations was that the use should not be permitted as-of-right anywhere in the City. That a site specific zoning by-law amendment and full public process should be undertaken if an application was to be considered on a given property. It was also discussed that any future site specific approval of a Rooming House should also require a licensing regime to be implemented.

Comments on Short-term Accommodations

The discussion on Short-term Accommodations primarily focused on not whether the use should be permitted, but concerns over noise, garbage, property standards and several "party houses" that had become a disturbance in several communities. Several residents raised concerns about public nuisances associated with short-term accommodations and the interference with their enjoyment of their homes and public spaces. Residents further raised concerns over the safety of Markham's neighbourhoods near several "party houses". Residents repeatedly cited the inability of City Enforcement Staff and Police to address the public nuisances and to safely and effectively deter this conduct under the current policies and regulations.

Comments on Second Suites

Comparatively few comments were made about Second Suites. Objections to Second suites were focused on the potential financial implications of permitting the use, while support for second suites focused on the potential to enhance supply of affordable housing.

DISCUSSION:

Based on the research conducted by Staff and GPA and input from both the public and DSC, Staff provides the following comments and recommendations:

Rooming Houses**Criteria**

Staff considered numerous criteria in evaluating Rooming Houses within the City as follows:

1. Not to permit except through re-zoning (not Committee of Adjustment)
2. Location requirements
3. Parking considerations
4. Distance separations
5. Restrict to Key Development Areas/Intensification Areas
6. Prohibit use in Duplex, Triplex, Fourplex and Apartments

Table 'A' (attached) identifies the criteria considered and Staff's opinions/comments on each.

Overarching objectives for Rooming Houses

The main objective in regulating Rooming Houses is to ensure the safety of occupants through the enforcement of building standards and other requirements.

Amending Markham's zoning by-laws and the 2014 Official Plan to include definitions for Rooming Houses and adding locational criteria in the OP as follows:

"...restricted to single detached, semi detached and townhouses in designated residential areas that front onto and have sole vehicular access from an arterial road within the Urban Boundary..."

would give a potential applicant a clear expectation of what criteria needs to be satisfied to ensure proper assessment of an application. Official Plan policies will also direct applications through the zoning by-law amendment process, which is a public hearing process that would allow the community input on the proposal.

While the Official Plan and zoning by-law regulates the "use" of lands, it does not regulation the operator of said use. Therefore, although Staff are not recommending that Rooming Houses also be permitted as-of-right anywhere in the City, **if** a site specific rezoning application to permit a Rooming House were approved by Council, Staff recommend that the Rooming House be licensed. Licensing conditions place a clear legal onus on the operator of the establishment to adhere to the conditions of the license or face potential revocation of the license, and fines. The advantages of licensing are outlined on the following pages.

Staff recommendations – Rooming Houses

Official Plan

As stated above, amending the 2014 Official Plan to include definitions and adding locational criteria would give a potential applicant a clear expectation of what criteria need to be satisfied to ensure proper assessment of an application.

Therefore, it is recommended that the 2014 Official Plan be amended to add subsection iii. to 8.13.9.1.b) [Shared Housing section] as follows:

“Shared housing in the form of a rooming house shall be restricted to single detached, semi detached and townhouses in designated residential areas that front onto and have sole vehicular access from an arterial road within the Urban Area as shown on Map 12 that are built in accordance with all applicable codes, by-laws and regulations.”

The draft Official Plan Amendment to define and adopt criteria for Rooming Houses [and to provide for and define Short-term Accommodations – discussed later in this report] is found in Appendix ‘B’

Zoning

As Rooming Houses are only defined in 27 of the 42 parent by-laws in the City and, these definitions are not consistently defined, having one consistent zoning definition for Rooming Houses will assist with enforcement and in regulating these uses.

Therefore, it is recommended that a City wide Zoning By-law Amendment be enacted by Council to define “rooming house large scale”, “rooming house small scale” and “dwelling unit” in all Markham zoning by-laws, **but not permit these uses “as-of-right” in any area of Markham.** Any proposal to establish a “Rooming House” use in Markham would require an amendment to the zoning by-law to permit the use on a particular property, which would trigger neighbourhood notice and a Public Meeting in each case. Defining these uses is instrumental in assisting with proper enforcement, as officers will have a clear indication from a zoning perspective of what exactly constitutes a “Rooming House” in Markham.

The draft Zoning By-law for Rooming Houses is found in Appendix ‘A’.

Licensing

There are numerous benefits to applying a licensing regime to Rooming Houses.

- **Health and Safety Benefits**
 - Require inspections for Fire, Building and Property Standards
- **Nuisance**
 - Require the property to be the principal residence of the Operator
 - Require 24/7 contact information from the operator

- Compliance with all City by-laws
- **Revocation Powers**
 - City can revoke a license where the licensee has failed to meet the requirements of the Licensing By-law or is subject to multiple complaints with respect to convictions of any law or by-law
- **Other Considerations**
 - Require licensing and inspection fees

Should Council consider approving a Rooming House through a site specific zoning amendment, it is recommended that a Licensing by-law be adopted in conjunction with that process. As Licensing by-laws require the use to be in conformity with the applicable zoning provisions, and since Staff are not proposing to permit the use within any zone, the adoption of a licensing by-law is not proposed at this time.

Short-Term Accommodations

Markham as a Destination City

The Canadian Sport Tourism Alliance recently ranked Markham 14th out of 51 cities nationwide for hosting national and international sport events in Canada. By hosting high-profile events, Markham is attracting more visitors who are supporting the local economy by staying at local hotels, going to local restaurants and visiting local attractions. York Region's Long Term Tourism Destination Development Strategy suggests a high percentage of tourists to the area fall into the category of "visiting friends and relatives" (VFR). STA's provide alternatives to those visiting the City who do not want to stay in traditional accommodations.

Short-term Accommodation services such as Airbnb and Vacation Rental by Owner ("VRBO") have become more and more popular worldwide in recent years. In Ontario alone, 11,000 hosts have listings and more than 375,000 people visited Ontario through an Airbnb in 2016. As of August 2017 Airbnb reported that there were 210 hosts in Markham, while the VRBO website has indicated nine listings in Markham.

A number of municipalities across the US and Canada have recently implemented, or are currently in the process of studying, land use regulations for STAs. Concerns that have been raised about STAs relate to negative impacts on the quality of life in the neighbourhood, such as excess of noise, parking issues, garbage and safety. Many of these issues relate to individual operators or occupants of the Short-term Accommodations, and are not issues universal to all STA uses.

Bed and Breakfast Establishment vs. Short-term Accommodations

To provide clarity, the main differences between a bed and breakfast establishment and a Short-term Accommodation are as follows:

- Although a bed and breakfast establishment is typically found in a building that was once occupied as a residence, it is a commercial use that can operate 365 days a year
- A bed and breakfast establishment is specifically zoned within commercial or mixed uses areas
- A bed and breakfast establishment does not have to be the principal residence of the proprietor of the establishment

- A Short-term Accommodation is intended to be ancillary to the primary use of a dwelling as a residence
- A Short-term Accommodation offers a place of temporary residence for overnight stays for one or more periods of less than 30 consecutive days, and not more than 180 total days over the duration of the calendar year
- A Short-term Accommodation must be in the principal residence of the proprietor of the establishment

Options provided to the public and DSC

There are several ways that Short-term Accommodations can be regulated in the City. On March 27, 2018, Staff provided three options to the public and DSC for discussion purposes and input. The options were as follows:

1. Require a site specific re-zoning application, and Licensing of the operator and platform;
2. Require a site specific Temporary Use By-law application, and Licensing of the operator and platform; or,
3. Permit in the Zoning By-law, and required Licensing of the operator and platform

The three options are fully assessed at the end of this section. Each of these three options would require that the use be licensed, and in each case, the Nuisance by-law can serve to regulate the occupant and operator of the use.

While options 1 and 2 offer the opportunity to assess an individual application on a site by site basis, requiring an individual to apply to rezone their property to allow for an STA (either in perpetuity or temporarily), does not necessarily accomplish what is ultimately intended which is to ensure the quality of life in the neighbourhoods (noise, safety, nuisance and parking) is maintained for the residents of Markham. This is because approval of a rezoning to permit the use on a particular property does not regulate the operator of the use. For example, a person who initially applies for an STA might be an excellent operator “host” who is respectful and conscientious of their neighbours and their neighbourhood. However, if/when the property is sold, the zoning rights to the STA (either in perpetuity or temporarily) would also follow the sale of the property. A new

owner/operator may not share those same values and could quickly become a nuisance/disruption within the community. Requiring a costly and arduous full public process on a site by site basis may further support an underground economy as operators seek to avoid the cost of an application.

Licensing:

As stated earlier in this report, there are numerous benefits to a licensing regime. Some key benefits relating to Short-term Accommodations include:

Health and Safety Benefits

- Require inspections for Fire, Building and Property Standards
- Consumer Protection
- Require proper business insurance
- Reporting requirements for the Booking Agency (i.e. Airbnb, VRBO etc.)
- Require police background checks

Nuisance

- Require the property to be the principal residence of the Operator
- Require 24/7 contact information from the “host”
- Compliance with all City by-laws (see proposed Public Nuisance By-law section below)

Revocation Powers

- City can revoke a license where the licensee has failed to meet the requirements of the Licensing By-law or is subject to multiple complaints or convictions with respect to any law or by-law

Other Considerations

- Require licensing and inspection fees
- Require that signage to be posted on the property when a license has been requested
- Mortgage company notified of license
- Ability to tax the activity (see Municipal Accommodation Tax (MAT) section, below)

A draft Licensing By-law for Short-term Accommodations is found in Appendix ‘C’.

Public Nuisance By-law

As identified at several DSC and Statutory Public Meetings, the occurrences of “party houses” and their associated negative impacts on neighbourhoods and resulting public nuisances such as disorderly conduct, illegal parking, litter, noise, and traffic congestion, have remained a significant concern to the residents of Markham and City Council.

Public Nuisance By-laws have been enacted in several municipalities in Ontario to provide Police and By-Law Enforcement officers and Police with the enforcement tools necessary to address the negative impacts on neighbourhoods of public nuisances. City Staff have consulted with enforcement officials from the cities of London, Guelph and Kingston regarding their respective nuisance party and Public Nuisance By-laws. Each was supportive of their respective by-law and felt it was serving its intended purpose.

In light of the concerns raised by residents relating to short-term accommodations and “party houses”, and the inability of Police to address public nuisances through criminal charges, City Staff recommend that a public nuisance by-law be enacted to provide more effective enforcement tools.

Other Cities Experiences

City of London, Ontario

In 2008, the London Police Service and City By-law Enforcement Staff began encountering nuisance and disorderly conduct issues involving large assemblies of people in residential areas in proximity to post-secondary educational institutions which included destruction of public and private property, noise, open air burning, traffic obstruction, littering, loitering, consumption of liquor on public and private property, and disorderly conduct.

In 2012, Council passed a “Public Nuisance By-law” in order to provide London Police Service and the City’s By-law Enforcement with the tools to address the behaviour of large unruly gatherings of persons on private property. In consultation with City of London Staff, it was determined that the by-law has been very effective since its establishment. Individuals convicted of an offence under this by-law are fined to a maximum of \$10,000. Everyone involved in the public nuisance is charged. The by-law has also been successful in keeping youths off of roofs, which has been an ongoing problem.

City of Guelph, Ontario

Modeled after the City of London’s Public Nuisance By-Law, the City of Guelph passed a Nuisance Party By-Law in 2013. The City now has the authority, in addition to charging a person, to impose a fee upon any person involved in a nuisance party, including the owner of the property, to cover any of the administrative and enforcement costs incurred by the City in responding to, and addressing the nuisance party. Imposed fees that remain unpaid can be added to the property owner’s taxes.

Since its passing, it has proven to be an effective and efficient way to discourage unwanted behavior and improve community safety and well-being. Guelph police and bylaw officers can issue a fine for party-related offences rather than resorting to criminal charges. Individuals convicted of an offence under this by-law can be fined up to \$10,000 and, on any subsequent conviction, up to \$25,000. Corporations can be fined up to \$50,000 and, on any subsequent conviction, up to \$100,000.

City of Kingston, Ontario

Kingston has experienced large gatherings on premises throughout their city. Some of these gatherings have involved nuisance behaviours of attendees including the excessive consumption of alcohol, very high noise levels, the overcrowding of premises and congregation of large numbers of persons on public property resulting in the blockage of pedestrian and vehicular traffic, and violations of federal and provincial statutes and municipal by-laws.

In 2017, Kingston Staff began assessing what additional regulatory tools may be available to assist Kingston Police and City By-Law Enforcement to more effectively control and attempt to deter such activities.

Building on the experiences from both Guelph and London, in February 2018, the City of Kingston passed its Nuisance Party Bylaw. Now, "...any person who creates, causes, hosts, sponsors, conducts, continues, or attends a nuisance party could be charged under a nuisance party bylaw. Further, any person who, individually or jointly with others, is an owner, occupant, tenant, or who otherwise has rightful possession of a premises, who permits a nuisance party could be held responsible through this type of bylaw. For example, **'absentee' landlords** could be held responsible under the bylaw after a failure to address repeated nuisance behaviour on the part of their tenants." *[Excerpt from City of London Frequently Asked Questions – Proposed Nuisance Party Bylaw]*

City of Markham

Staff recommend that a Public Nuisance By-law be enacted as it would provide York Regional Police and Markham's By-law & Regulatory Services departments with the ability to regulate and prohibit activities that they deem to be public nuisances and activities that may be likely to be unwanted or disturbing to persons. A Public Nuisance By-law would provide City Enforcement Staff and Police with authority to order that public nuisances be discontinued and that all persons not residing at the residence where the social gathering is occurring immediately leave the property. Persons who fail to comply with an Order made under this authority would be subject to an Administrative Monetary Penalty or could be charged with a provincial offence under the by-law. It is the opinion of Staff that a relatively high fine is necessary to deter this type of activity as those who are aware of the financial consequences are more likely to be dissuaded from doing so. Staff recommend that individuals convicted of an offence under this by-law be fined a minimum of \$500, up to \$10,000 and, on any subsequent conviction, up to \$25,000. Corporations convicted of an offence under this by-law would be fined up to \$50,000 and, on any subsequent conviction, up to \$100,000.

Public education is integral to the effective implementation of this By-law. Staff will work with representatives of neighbourhood groups and booking agencies (i.e. Airbnb, VRBO etc.) to develop proactive communications.

A draft Public Nuisance By-law is found in Appendix 'D'.

Assessment of the three options provided at the March 27, 2018 DSC meeting**OPTION 1** – Require a site specific re-zoning application

Facts:

1. A site specific re-zoning application requires a Statutory Public Meeting
2. It is a full public process under the Planning Act
3. Council makes the final decision to approve or deny an application
4. Decisions by Council can be appealed to Local Planning Appeal Tribunal (LPAT) – formerly OMB

Pros of Site Specific Re-zoning	Cons Site of Specific Re-zoning
<ul style="list-style-type: none"> • Provides Council with direct approval • Provides for public input on a proposed application • Official Plan provisions can attempt to direct applications through a Zoning By-law Amendment process rather than through the Committee of Adjustment process 	<ul style="list-style-type: none"> • Lengthy and costly process may continue to encourage illegal operations • Re-zoning may result in an increased volume of applications which could create Staffing challenges in processing applications in a timely manner • Zoning creates approvals in perpetuity. Once approved, cannot be revoked unless there are sound planning reasons for rezoning • May be cost prohibitive to those proprietors who only operate on a periodic basis

OPTION 2 – Require a site specific Temporary Use By-law application

Facts:

1. A Temporary Use By-law is a planning process where Council has the opportunity to permit a use for a limited amount of time
2. The maximum number of years that a Temporary Use By-law can be in force is three (3) years
3. A Temporary Use By-law can only be extended with the approval of Council
4. A Temporary Use By-law requires a Statutory Public Meeting
5. A Temporary Use By-law is a full public process
6. Council makes the final decision to approve or deny an application
7. Decisions by Council are appealable to Local Planning Appeal Tribunal (LPAT) – formerly the OMB

Pros of Site Specific Temporary Use By-law	Cons of Site Specific Temporary Use By-law
<ul style="list-style-type: none"> • Provides Council with direct control based on a specific application and Council can choose not to extend the terms of the by-law • Provides for public input • Official Plan provisions can attempt to direct applications through a Temporary Use By-law Amendment process rather than through the Committee of Adjustment process • Council can apply fixed term site specific approvals of up to three years. By-law expires after term limit. • Application for renewal and full public process required prior to extending the terms of the by-law 	<ul style="list-style-type: none"> • Lengthy and costly process may encourage illegal operations • Onerous and costly process especially for proprietors who only operate on a periodic basis • Re-zoning may result in substantial volume increases in applications which could create Staffing challenges. • Once an application is initially approved, it may be difficult to justify denial to extend the temporary use (must be based on planning reasons)

OPTION 3 - Permit the use in the Zoning By-law

Facts:

1. Permitting as of right would allow STA's in single detached, semi-detached, duplexes, triplexes, fourplexes and apartment units in the City of Markham
2. Not a public process when a proprietor chooses STA.

Pros to permitting As of Right	Cons to permitting As of Right
<ul style="list-style-type: none"> • Less onerous on individual proprietors as lengthy and costly public process and public participation would be avoided • Would encourage compliance through licensing as the time to process a license and associated costs would be substantially less than through re-zoning 	<ul style="list-style-type: none"> • Does not promote affordable housing as Second Suites may be used as STA's which typically charge more on a nightly or longer term basis • Individual proprietors would be able to avoid public hearing process and public input/participation may be limited • Decisions out of the hands of Council

Short-term Accommodations – Staff recommendations

Staff have considered the three options, and the pros and cons to each. It is the opinion of Staff that permitting, and licensing Short-term Accommodations will offer the best opportunities to control the use, and correct undesirable actions. Requiring an individual to apply to rezone their property to allow for an STA (either in perpetuity or temporarily), creates a barrier to compliance, and will likely result in an underground economy that is difficult, costly, and likely impossible to regulate.

Through permitting and licensing Short-term Accommodations, Staff can work with the individual operators, and with platforms such as AirBnB and VBRO, to reduce the negative impacts of STA's on the surrounding neighbourhoods, and create a positive resource for the community. Licensing is only applied to permitted land uses, and is a better tool to regulate the operation of a use than zoning alone.

Furthermore, the enactment of a Public Nuisance By-law will assist York Regional Police and Markham's By-law & Regulatory Services departments in their ability to regulate activities that constitute public nuisances and to order persons to discontinue the public nuisance and that all persons not residing at a residence where the public nuisance is occurring, immediately leave the property.

Therefore, Staff recommend that:

1. A Zoning By-law amendment be enacted by Council to permit and define Short-term Accommodations in all single detached, semi detached, townhouse, duplex, triplex, fourplex and apartment units in all zoning by-laws in Markham.

The draft zoning By-law to permit and define Short-term Accommodations is found in Appendix 'E'.

2. A new Official Plan definition be adopted by Council to define Short term Accommodations.

The draft Official Plan Amendment which provide for and define Short-term Accommodations is found in Appendix 'B'.

3. All Short-term Accommodations within the city to be licensed as per Appendix 'C'.
4. A "Public Nuisance By-law" be enacted by Council as per Appendix 'D'.

Second Suites

In 2012, the Province identified affordable housing as a matter of provincial interest with Second Suites playing a key role in the provision of affordable housing. In addition, the legislation requires municipalities to pass zoning by-laws to permit Second Suites in single detached, semi-detached and row houses [townhouses], either within the building or in an ancillary structure.

Presently, Second Suites are not permitted in most of Markham's current zoning by-laws, except for areas of Cornell, Cathedral, Angus Glen, Markham Centre, or those that were legally in existence prior to November 16, 1995. There are currently 731 registered second suites, with 48 building permit for second suites in application.

Through the building permit process, upgrades to convert a finished basement to a second suite are often required. Minimum window sizes, minimum room sizes, appropriate egress or exiting (including prohibiting egress through a garage door), and modifications to increase fire separation between units are the more common modifications. These modification improve the living conditions within the units, and improve the safety of the occupants of both units.

Objectives for Permitting Second Suites

1. Safety is the primary motivator
2. Affordable housing should be safe housing
3. Permitting through zoning and registration ensures that new and existing Second Suites meet Building and Fire Code requirements
4. Providing alternative housing options that reflect today's society
5. Removes barriers to compliance
6. Achieves the above objectives in a fiscally responsible manner to ensure the safety of the units

Criteria

Staff considered several criteria in evaluating Second Suites within the City as follows:

1. Parking considerations
2. Minimum/Maximum size of Second Suite
3. Number of entrances
4. Registration

Table 'B' (attached) identifies the criteria considered and Staff's opinions/comments on each.

Registration By-law

Legally existing Second Suites prior to November 16, 1995, must be registered as a two unit dwelling with the Fire and Emergency Services Department under the City's Registration By-law (308-97). The Registration By-law applies only to units that were legally in existence prior to November 16, 1995. This by-law needs to be amended in order to apply to Second Suites that would become legal once the zoning by-law amendment extending the permission for Second Suites is approved. The by-law includes provisions for a registration fee.

There are numerous reasons to require that Second Suites be registered. Some are as follows:

- The registration's inspection process will ensure that a Second Suite is “safe” from a building a fire code perspective.
- Registration will aid Fire Services and other Emergency Services in dispatching appropriate staff and equipment in calls for assistance.
- Will officially recognize the dwelling as a two-unit house with the City. This will assist in future real estate transactions.
- Prospective tenants will be able to verify whether a rental unit in a two-unit house has been inspected and registered with the City.

In order to protect persons, property and the health, safety and well-being of Markham residents, Staff are recommending that Registration By-law (308-97), be amended.

The draft Registration By-law is found in Appendix ‘F’.

Zoning

It is recommended that a zoning bylaw amendment be enacted by Council to define and extend the permission for Second Suites in all single detached, semi-detached and townhouse dwellings in Markham. The by-law includes a number of the conditions for a secondary suite as provided for in the Official Plan. These conditions also reflect feedback from the public and members of Council. The conditions are set out as follows:

One accessory dwelling unit is permitted in a detached house, semi-detached house or townhouse in any zone provided:

- a) both the principle dwelling unit and the secondary dwelling unit are wholly contained within the same detached, semi-detached or townhouse dwelling;
- b) there are no more than two dwelling units on the same lot and that the secondary dwelling unit does not contain lodging rooms;
- c) each dwelling unit has a floor area of no less than 35m²;
- d) no more than one dwelling entrance is contained within any main wall facing a streetline;
- e) no additional parking spaces are required for a Second Suite; and,
- f) all other provisions of Markham’s zoning By-laws are complied with.

The draft Zoning By-law to permit Second Suites is found in Appendix ‘G’.

Second Suites – Staff recommendations

Staff recommend approval of the zoning by-law amendments to permit second suites in all single detached, semi-detached, and townhouse dwellings, exclusive of special policy areas (found in Appendix ‘J’). Staff also recommend approval of proposed amendments to the City’s registration by-law, fee by-laws, and the approval of an increase in the Fire Department full-time complement, for the hiring of one additional Fire Prevention Officer and associated vehicle.

FINANCIAL CONSIDERATIONS:

The Finance, Fire, By-law Enforcement, and Building Departments have been consulted in the drafting of this report.

The administration and registration of second suites is a labour intensive process that requires approximately 21 hours of staff time for a new second suites and approximately 41 hours of staff time for an existing unregistered second suite. The number of inspections and registrations is difficult to forecast, but staff believe that requesting staffing for 75 registration/year is prudent. Council authority is being sought to add an additional Fire Prevention Officer and associated vehicle, which would allow for up to 75 inspections of existing second suites a year (taking into account nominal existing capacity). Volumes would be monitored and staffing levels (including By-Laws and Building departments, as well as Fire) may need to be adjusted as volumes become more well known.

With respect to recovering operating costs, staff are of the view that owners of second suites should be responsible to pay the full costs associated with getting their units registered as to not place additional financial burden on other tax payers. In order to attempt to achieve full administrative cost recovery, the following fees are recommended to be changed /implemented:

Department	Fee	Current	Proposed
Fire	Two Unit Residential Inspection Fee	\$339.50	\$1,800.00
	Two Unit Residential Registration Fee	<u>\$169.50</u>	<u>\$200.00</u>
		\$508.50	\$2,000.00
	Multiple Occupancy Residential Additional Re-inspection Fee	\$163.85/inspection	\$100.00/hour
By-Laws	Second Suite Property Inspection Fee	None	\$475.00
	Second Suite Additional Re-Inspection Fee	None	\$100.00/hour

The Building Department requires a statutory public meeting to update their fees, therefore it is recommended that their Accessory Apartment Fee be updated during their 2019 Fee By-law Update, with an estimated increase from \$11.45/Sq. m. to \$16.00/Sq. m.

See “**Appendix H**” for a more detailed Financial analysis on Second Suites.

Short-term Accommodation license fees are also structured to achieve full application cost recovery with the goal of creating a sustainable program, and to allow for responsive changes to workload if necessary.

Municipal Accommodation Tax

On February 20th, 2018, Staff presented to General Committee a Municipal Accommodation Tax (MAT) Staff report, which provided an overview of the Province’s new Transient Accommodation Tax legislation (referred to as the Municipal Accommodation Tax (MAT)). The Staff report further provided Council with a summary of MAT programs implemented and/or considered in other municipalities.

Council directed Staff to undertake a consultation and engage with stakeholders and the hotel industry regarding the implementation of a four percent (4%) Municipal Accommodation Tax and report back with the feedback obtained.

During the month of March 2018, Economic Growth, Culture & Entrepreneurship and Finance Staff met with stakeholders and the hotel industry regarding the four percent (4%) Municipal Accommodation Tax (MAT).

MAT Implementation & Rate Feedback

Amongst other requests, hoteliers requested that the City impose a 4% MAT on all short-term accommodation providers as they are operating a commercial establishment and should be subject to the tax.

On May 1, 2018, Council approved a four percent (4%) Municipal Accommodation Tax on all Short-term rental providers, subject to Council's direction on "this report" relating to Short-term Accommodations licensing requirements.

Under the proposed regulations, Rooming Houses would remain uses which are not permitted as of right, and therefore, would not trigger any additional financial considerations. If a Planning Act application was submitted to permit Rooming Houses on a property, financial considerations would be taken into account during the application review.

HUMAN RESOURCES CONSIDERATIONS:

Staff are proposing the addition of one Fire Prevention Officer.

ALIGNMENT WITH STRATEGIC PRIORITIES:

This Project aligns with the City's strategic priority of Growth Management by implementing the New Official Plan and establishing a zoning framework to guide future development in the City. This project also aligns with the City's strategic priorities relating to quality customer service by providing improved access to up-to-date zoning and Official Plan information.

BUSINESS UNITS CONSULTED AND AFFECTED:

This City-wide Project affects many City Departments including Finance, Fire, Building, Legislative Services, By-law Enforcement, and Clerks. All relevant City departments have been consulted extensively throughout 3A of this Project.

POLICY CONFORMITY:

The policies of the 2014 Official Plan, as amended, including the definitions, land use and specific use provisions that are proposed to be amended are consistent with the Provincial Policy Statement, 2014, and conforms to all applicable Provincial Plans and the Region's Official Plan. The proposed Official Plan and Zoning by-law amendments related to rooming houses, short-term accommodations, and secondary suites provision are consistent with the Provincial Policy Statement, 2014, and conform to all applicable

Growth Plan for the Greater Golden Horseshoe, York Region Official Plan and Markham Official Plan policies. The proposed amendments have regard for matters of provincial interest in listed in the Planning Act and represent good planning and are in the public interest.

RECOMMENDED BY:



Ron Blake, M.C.I.P., R.P.P.
Senior Development Manager
Planning & Urban Design



Biju Karumanchery, MCIP, RPP
Director
Planning & Urban Design

Attachments:

Appendix A	Draft Zoning By-law to define Rooming Houses
Appendix B	Draft Official Plan Amendment to define and adopt criteria for Rooming Houses and to provide for and define Short-term Accommodations
Appendix C	Draft Licensing By-law for Short-term Accommodations
Appendix D	Draft Public Nuisance By-law
Appendix E	Draft Zoning By-law to permit and define Short-term Accommodations
Appendix F	Draft Registration By-law for Second Suites
Appendix G	Draft Zoning By-law to permit Second Suites
Appendix H	Finance comments
Table A	Criteria considered for Rooming Houses and Staff's opinions/comments on each
Table B	Criteria considered for Second Suites Staff's opinions/comments on each

Appendix ‘A’



BY-LAW 2018-_____

A By-law to amend By-laws 1229, 1442, 1507, 1767, 1914, 2 053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196, as amended

The Council of the Corporation of the City of Markham hereby enacts as follows:

- 1.0 By-laws 1229, 1442, 1507, 1767, 1914, 2 053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196 as amended, are hereby amended by:

- 1.1 The following definitions shall apply:

“Dwelling Unit” means a unit consisting of one or more rooms, which contains cooking, eating, living and sanitary facilities and is not a rooming house.

“Rooming House, Small Scale” means a building where lodging is provided in return for remuneration or services (or both) in 3 to 5 lodging rooms and where lodging rooms do not contain both bathroom and cooking facilities for the exclusive use of individual occupants and may include

one *dwelling unit* in addition to the lodging rooms, but does not include a residential use with support services.

“Rooming House, Large Scale” means a building where lodging is provided in return for remuneration or services (or both) in more than 5 lodging rooms and where lodging rooms do not contain both bathroom and cooking facilities for the exclusive use of individual occupants and may include one *dwelling unit* in addition to the lodging rooms, but does not include a residential use with support services.

- 1.2 The definition of ‘Boarding or Lodging House’ in By-law 1229 as amended, is deleted.
- 1.3 The definition of ‘Boarding or Rooming House’ in By-laws 77-73, 83-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, and 47-85 as amended, is deleted.
- 1.4 The definition of ‘Dwelling’ in By-laws 1229, 1442, 122-72, 77-73, 83-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 242-90, and 19-94 as amended, is deleted.
- 1.5 The definition of ‘Dwelling Unit’ in By-laws 1229, 1442, 1507, 1767, 1914, 2 053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196 as amended, is deleted.
- 1.6 The terms “Dwelling” and “Dwelling Unit” contained in By-laws 1229, 1442, 1507, 1767, 1914, 2 053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-

78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196, as amended, are deleted and replaced with the term 'Dwelling Unit'

1.7 The terms "Boarding or Lodging House" and "Boarding or Rooming House" contained in By-laws 1229, 1442, 1507, 1767, 1914, 2 053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196, as amended, are deleted and replaced with the term "Rooming House, Small Scale"

2.0 All other provisions of By-laws 1229, 1442, 1507, 1767, 1914, 2 053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196 as amended, not inconsistent with the provisions of this By-law 2018-_____, shall continue to apply.

Read a first, second and third time this _____ day of _____, 2018.

Kimberley Kitteringham,
City Clerk

Frank Scarpitti,
Mayor

Appendix 'B'

CITY OF MARKHAM

OFFICIAL PLAN AMENDMENT NO. XXX

To amend the City of Markham Official Plan 2014, as amended.

(Shared Housing and Short Term Accommodation Policies)

(2018)

CITY OF MARKHAM

OFFICIAL PLAN AMENDMENT NO. XXX

To amend the City of Markham Official Plan 2014, as amended.

This Official Plan Amendment was adopted by the Corporation of the City of Markham, By-law No. _____ - ____ in accordance with the Planning Act, R.S.O., 1990 c.P.13, as amended, on the _____ **st OR nd OR rd OR th** day of _____, 2018.

Mayor

City Clerk

THE CORPORATION OF THE CITY OF MARKHAM

BY-LAW NO. _____

Being a by-law to adopt Amendment No. XXX to the City of Markham Official Plan 2014, as amended.

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM, IN ACCORDANCE WITH THE PROVISIONS OF THE PLANNING ACT, R.S.O., 1990 HEREBY ENACTS AS FOLLOWS:

1. THAT Amendment No. XXX to the City of Markham Official Plan 2014, as amended, attached hereto, is hereby adopted.
2. THAT this by-law shall come into force and take effect on the date of the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS _____ **st OR nd OR rd OR th**
DAY OF _____, 2018

CITY CLERK

MAYOR

CONTENTS

PART I - INTRODUCTION

1.	GENERAL.....	1
2.	PURPOSE.....	1
3.	BASIS	1

PART II - THE OFFICIAL PLAN AMENDMENT

1.	THE OFFICIAL PLAN AMENDMENT	3
2.	IMPLEMENTATION AND INTERPRETATION	4

PART I - INTRODUCTION

(This is not an operative part of Official Plan Amendment No. XXX)

PART I - I NTRODUCTION

1.0 GENERAL

- 1.1** PART I - INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.
- 1.2** PART II - THE OFFICIAL PLAN AMENDMENT, constitutes Official Plan Amendment No. XXX. Part II is an operative part of this Official Plan Amendment.

2.0 PURPOSE

The purpose of this Official Plan Amendment is to provide guidance for short term accommodations, and future site specific zoning by-law amendments involving shared housing.

3.0 BASIS OF THIS OFFICIAL PLAN AMENDMENT

The amendment is based on recommendations included in reports regarding Phase 3A of the comprehensive zoning by-law review. Rooming houses, which are a type shared housing, and short term accommodations are not permitted as of right through the zoning by-law. The intent of this amendment is to provide guidance for Council when considering applications to amend the zoning by-law on a site specific basis for rooming houses and, to provide for short term accommodations in all residential and mixed use designations within the City.

PART II - THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

PART II - THE OFFICIAL PLAN AMENDMENT

1.0 THE OFFICIAL PLAN AMENDMENT

- 1.1** Section 8.2.3.2 of the Official Plan 2014, as amended, is hereby amended by replacing the Section with the following:

*“To provide for **shared housing small scale** in accordance with Section 8.13.9 of this Plan and **short term accommodation** in accordance with Section 8.13.11 of this Plan, on lands designated ‘Residential Low Rise’, in addition to the uses listed in Section 8.2.1.2.”*

- 1.2** Section 8.2.4.2 of the Official Plan 2014, as amended, is hereby amended by replacing the Section with the following:

*“To provide for **short term accommodation**, in accordance with Section 8.13.11 of this Plan, on lands designated ‘Residential Mid Rise’, in addition to the uses listed in Section 8.2.1.2.”*

- 1.3** Section 8.2.5.2 of the Official Plan 2014, as amended, is hereby amended by adding the following words:

*“To provide **short term accommodation**, in accordance with Section 8.13.11 of this Plan, on lands designated ‘Residential High Rise’, in addition to the uses listed in Section 8.2.1.2.”*

- 1.4** Section 8.3.1.2 of the Official Plan 2014, as amended, is hereby amended as follows:

*“By removing the word “and” at the end of subsection k); adding the word “and” at the end of sub section l) and replacing the period with a semicolon; and adding a new sub section m) as follows: ‘**short term accommodation** in accordance with Section 8.13.11 of this Plan.’*

- 1.5** Section 8.13 of the Official Plan 2014, as amended, is hereby amended by adding a new Section 8.13.11 as follows:

“ 8.13.11 Short term Accommodation**It is the Policy of Council:**

8.13.11.1 To provide for *short term accommodation* in all residential and mixed use designations in accordance with all applicable codes, by-laws, regulations and all other policies of this Plan.”

- 1.6** Section 8.13.9.1 b) of the Official Plan 2014, as amended, is hereby amended by removing the word “and” at the end of subsection i., replacing the period at the end of subsection ii. with a semicolon and adding the word “and” after the semicolon and adding a new section 8.13.9.1.b) iii as follows:

“that location of *shared housing* in the form of a rooming house shall be restricted to single detached, semi detached and townhouses in designated residential areas that front onto and have sole vehicular access from an arterial road within the “Urban Boundary” that are built in accordance with all applicable codes, by-laws and regulations.”

- 1.7** Section 11.2 of the Official Plan 2014, as amended, is hereby amended by adding the following definitions:

“**Short term accommodation** means an establishment that operates as or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for overnight accommodation, for one or more periods of less than 30 consecutive days, and not more than 180 total days over the duration of the calendar year, within a dwelling that is the principal residence of the proprietor of the establishment.”

“**Principal residence**” is a *dwelling unit* where an individual lives, makes their home, and conducts their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including without limitation, income tax returns, medical documentation, driver’s licenses, personal identification, vehicle registration and utility bills.

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the City of Markham Official Plan 2014, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment.

Appendix 'C'

**BY-LAW 2018-_____****A By-law to amend By-law 2012-158, as amended, being a by-law to Provide for the Licensing and Regulation of Stationary Businesses (Stationary By-Law**

Whereas Section 151 of the *Municipal Act, 2001, S.O. 2001. C25* as amended, provides that a local municipality may license, regulate, and govern any business, wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality; and,

Whereas administrative amendments are required from time to time for enforcement purposes;

The Council of The Corporation of the City of Markham hereby enacts as follows:

That Stationary Business License By-law 2012-92, as amended, is hereby further amended as follows:

1. That Section 3. "Schedules" is amended to add the following:

Schedule 25	Short-term rental accommodation
Schedule 26	Short-term rental company

2. That Section 4.1 is amended to add the following:

- z) every person who owns or operates a Short-term rental accommodation
- aa) every person who owns or operates a Short-term rental company

3. That Schedule 1, Section 2.3, table for licensing renewal is amended to add the following:

Short-term rental accommodation	December 31 st .
Short-term rental company	December 31 st .

4. That Schedule 25 is added:

Schedule 25
Relating to Short-Term Rental Accommodations

1. Definitions

“Dwelling unit” means a unit consisting of one or more rooms, which contains cooking, eating, living and sanitary facilities and is not a rooming house.

“Principal residence” is a *dwelling unit* where an individual lives, makes their homes, and conducts their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including without limitation, income tax returns, medical documentation, driver’s licenses, personal identification, vehicle registration and utility bills.

“Short-term rental accommodation” means an establishment that operates as or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for overnight accommodation, for one or more periods of less than 30 consecutive days, and not more than 180 total days over the duration of the calendar year, within a single *dwelling* that is the *principal residence* of the proprietor of the establishment.”

“Short-term rental operator” is any individual person (owner or tenant) who operates a short-term rental. *Short-term rental operators* must be 18 years of age or older. Corporations cannot be operators.

2. Application

This by-law applies to all *short-term rental accommodations* in the City of Markham.

3. Prohibition

No person shall operate a *short-term rental accommodation* unless it is registered as required by this By-law.

4. Short-Term Rental Accommodation Licensing

Short-term rental operators shall be licensed with the City annually. Licenses shall consist of paying an annual registration fee and providing the following information:

- a. name, contact information (phone and email), address and government-issued identification of a type that demonstrates compliance with the *principal residence* requirement, to be determined by the *Licensing Officer*;
- b. emergency contact information (name and phone number of a person available by phone 24 hours a day during rental);
- c. description of which parts of the property will be used for *short-term rental accommodation* (number of bedrooms, secondary suite, other shared space);
- d. building type (condominium, apartment, detached, semi-detached, row house, townhouse, etc.);
- e. letter of authorization from any condominium board in which the *Short-term rental accommodation* is located; and
- f. any other information or documents required by the *Licensing Officer*.

5. SHORT-TERM RENTAL OPERATOR REQUIREMENTS

- a. No one shall operate or advertise any *short-term rental accommodation* that is not registered;
- b. *Short-term rental operators* shall include the City-issued registration number in any advertisement and in any invoice or contract related to the *short-term rental accommodation*;
- c. *Short-term rental operators* shall update the registry within six days of any changes to the information provided to the City;
- d. *Short-term rental operators* shall keep records of transactions related to every *short-term rental accommodation* listing for three years with the following details and provide this information to *Licensing Officer* within 30 days of being requested to do so:
 - 1. number of nights rented as a short-term rental;
 - 2. rental type (entire unit, shared unit, or secondary suite); and
 - 3. any other information as required by the *Licensing Officer*.
- e. *Short-term rental operators* shall provide emergency contact information (reachable during guest stay) to all guests;
- f. *Short-term rental operators* shall provide guests with a diagram of all exits from the building and 911 emergency contact information; and,
- g. *Short-term rental operators* shall be required to provide, upon subsequent annual registration, the number of nights their short-term rental was rented for the previous year, for review by the City in advance of a registration renewal being finalized.

6. PRINCIPAL RESIDENCE REQUIREMENTS AND RENTAL LIMITS

- a. No *short-term rental operator* shall rent or advertise for rent a *short-term rental accommodation* except at their *principal residence*.
- b. A *short-term rental operator* can only have one *principal residence* at any time.
- c. A *short-term rental operator* must, upon request from the *Licensing Officer* provide evidence that is satisfactory to the *Licensing Officer* within ten days that the property they have registered for *short-term rental accommodation* is their *principal residence*.

7. REFUSING OR CANCELLING A SHORT-TERM RENTAL OPERATOR'S REGISTRATION

The *Licensing Officer* may exercise discretion to refuse or cancel a registration where the *short-term rental operator*:

- a. has not carried on the activity with integrity and honesty;
- b. has violated any law or By-law;
- c. is conducting activity in such a way that would infringe on the rights of other members of the public; or
- d. has or would endanger the health or safety of other members of the public.

The *Licensing Officer* shall provide the *short-term rental operator* with written notice that consideration is being given to the refusal or cancellation of the operator's registration, and that the *short-term rental operator* has an opportunity to respond in writing to the notice within ten days of being notified. The *Licensing Officer* will then provide the *short-term rental operator* with written notice of any decision to refuse or cancel the registration.

The *short-term rental operator* shall be provided with an opportunity to request, in writing, a second review of any decision to cancel their registration by the *Licensing Officer*, within 30 days of the decision. The *Licensing Officer* will consider the request for second review and inform the *short-term rental operator* in writing of the decision made, which may affirm or change the original decision.

Where the *Licensing Officer* is reviewing whether to refuse or cancel a *short-term rental operator's* registration, the process by which the decision is reached shall be in writing unless the operator requests an oral or electronic hearing and the *Licensing Officer* determines that there is a good reason to hold an oral or electronic hearing and, if so, by whom and how the hearing shall be conducted.

If a *short-term rental operator's* registration has been refused or cancelled pursuant to this process, the *short-term rental operator* cannot reapply to the registry for one year.

The *Licensing Officer* has the discretion to cancel a registration if the operator's registration was issued due to a technological or clerical error.

8. SHORT-TERM RENTAL OPERATOR'S RESPONSIBILITY

The onus of proving that a short-term rental accommodation meets the requirements set out in this By-law is on the *short-term rental operator*.

9. FINES

Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

License Fees

a.

5. That Schedule 26 is added

Schedule 26 Relating to Short-Term Rental Companies

1. Definitions

"Dwelling unit" means a unit consisting of one or more rooms, which contains cooking, eating, living and sanitary facilities and is not a rooming house.

"Principal residence" is a *dwelling unit* where an individual lives, makes their homes, and conducts their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including without limitation, income tax returns, medical documentation, driver's licenses, personal identification, vehicle registration and utility bills.

"Short-term rental company" is any person in the business of facilitating or brokering bookings for short-term rentals via the internet and who:

- a. receives payment, compensation, or any other financial benefit as a result of a person making or completing bookings of those short-term rentals; or

- b. collects, accesses, or holds information on the number of nights that bookings of those short-term rentals are made or completed.

This definition does not apply to a person who facilitates or brokers bookings for a short-term rental owned by that person or his or her immediate family. "Person" includes multiple persons who act together to carry on the business of a short-term rental company, despite the fact that no single one of those persons carries on the activity in its entirety. Such persons shall be subject to the requirements and may be held jointly and severally responsible for each other's actions;

"*Short-term rental accommodation*" means an establishment that operates as or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for overnight accommodation, for one or more periods of less than 30 consecutive days, and not more than 180 total days over the duration of the calendar year, within a single *dwelling* that is the *principal residence* of the proprietor of the establishment."

"*Short-term rental operator*" is any individual person (owner or tenant) who operates a short-term rental. *Short-term rental operators* must be 18 years of age or older. Corporations cannot be operators.

2. All *short-term rental companies* operating in the City shall apply for a *short-term rental company* license. The *short-term rental company* shall pay a license fee and provide the following information:
 - a. name, phone number, and email address of a person responsible for responding to all City communications;
 - b. a registered business address in Ontario; and
 - c. any other information or documents as required by the *Licensing Officer*.
3. *Short-term rental companies* shall keep transaction records of every short-term rental listing for three years with the following details and disclose this information regularly to the *Licensing Officer* in a format and in accordance with a schedule determined by the *Licensing Officer*.
 - a. name, address, and registration number of the *short-term rental operator*;
 - b. number of nights rented as a *short-term rental accommodation*;
 - c. rental type (shared unit, or secondary suite);
 - d. any other information as required by the *Licensing Officer*; and
 - e. number of listings removed due to non-registration.

4. A *short-term rental company* upon request by the *Licensing Officer* shall convey any communications issued by the City that relate to the requirements of the *short-term rental accommodation* to all *short-term rental operators* advertising with the *short-term rental company* in a format and manner determined by *Licensing Officer*.
5. A *short-term rental company* shall:
 - a. maintain and make publicly available their procedure for dealing with listings when complaints are received about nuisances, criminal activity, and/or contraventions of federal, provincial or municipal law; and
 - b. be prohibited from imposing a mandatory arbitration clause on individuals (*short-term rental operators* and guests) using the *short-term rental company* to facilitate or broker short-term rentals or requiring the law of any jurisdiction other than Ontario to be applied in relation to use of the *short-term rental company* in Markham; if clauses contrary to this requirement are included in any *short-term rental company* agreement with individuals using its services, such clauses are unenforceable.
6. The *Licensing Officer* has the discretion to revoke, reject, or not renew a *short-term rental company's* application for a license if the license was issued due to a technological or clerical error.
7. A *short-term rental company* shall create *short-term rental operator* and guest accounts for enforcement purposes upon request by the *Licensing Officer* and the *short-term rental company* shall be prohibited from obstructing access to those accounts.
8. All *short-term rental companies* as a condition of licensing shall execute an agreement with the City governing the collection, use, retention, and transmission of *short-term rental operator* information on terms satisfactory to the *Licensing Officer*, and the *Licensing Officer* shall have authority to execute such an agreement on the City's behalf.
9. Should a *short-term rental company* choose to facilitate the *short-term rental operator's* registration process, it must obtain consent from the *short-term rental operator* to use personal information to and by the City for the purposes permitted this By-law, which consent must be in a form satisfactory to the *Licensing Officer*.
10. The *Licensing Officer* has the authority to suspend or place conditions on the *short-term rental company* license without a hearing for up to 14 days at the *Licensing Officer's* discretion if the *Licensing Officer* has reasonable grounds to conclude that the continued activity of the *short-term rental*

-
- company* poses an immediate danger to health or safety of any person or to property.
11. *A short-term rental company* shall:
 - a. ensure that an *short-term rental operator's* registration number is included in all advertisements; and
 - b. remove all *short-term rental accommodation* advertisements that are not registered within 24 hours of notification from the City.
 12. No person, including a *short-term rental company*, can advertise, facilitate or broker a *short-term rental accommodation* that is not registered with the City.
 13. *A short-term rental company* shall be required to provide, as part of the initial license application:
 - a. a process by which listings not registered with the City will be removed from the *short-term rental company's* platform; and
 - b. a procedure for dealing with problem *short-term rental operators*, and responding to complaints and other issues.
 14. *Short-term rental companies* shall submit to audits of their records as requested by the *Licensing Officer*.
 15. Any *short-term rental company* that contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine of not more than \$100,000.

License Fees

Short term rental company shall be subject to the following fees outlined in by-law XXXX

Read and first, second and third time and passed on _____, 2018.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor

Appendix ‘D’



BY-LAW 2018-_____

Being a By-law to Prohibit and Regulate Public Nuisances

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the “*Municipal Act*”), provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 8 of the *Municipal Act* provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable it to govern its affairs as it considers appropriate, and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS section 9 of the *Municipal Act* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 11(2)6 of the *Municipal Act* provides that a lower tier municipality may pass by-laws respecting the interest of the health, safety and well-being of persons;

AND WHEREAS section 128 of the *Municipal Act* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances.

AND WHEREAS section 391 of the *Municipal Act* provides that a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS subsection 398(1) of the *Municipal Act* provides that fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality;

AND WHEREAS section 425 of the *Municipal Act* provides that a municipality may pass by-laws providing that a person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS subsection 429(1) of the *Municipal Act* provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS section 434.1 of the *Municipal Act* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS section 435 of the *Municipal Act* provides for the conditions governing the powers of entry of a municipality;

AND WHEREAS section 436 of the *Municipal Act* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

AND WHEREAS section 441.1 provides that upon the request of a municipality that has entered into a transfer agreement under Part X of the *Provincial Offences Act*, the treasurer of a local municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes;

AND WHEREAS section 444 of the *Municipal Act* provides that a municipality may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

AND WHEREAS section 445 of the *Municipal Act* provides that a municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act* provides that where a municipality has authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person required or directed to do it, the matter or thing may be done at the person's expense;

AND WHEREAS, in the opinion of Council, enforcement options beyond those available in existing by-laws are necessary to address the negative impacts on neighborhoods associated with large social gatherings resulting in public nuisances such as traffic congestion, noise, disorderly conduct, illegal parking, and litter;

NOW THEREFORE the Municipal Council of The Corporation of the City of Markham enacts as follows:

1. DEFINITIONS

“Building” means any structure consisting of a roof supported by walls or columns that is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment;

“City” means The Corporation of the City of Markham;

“Dwelling” means a Building containing one or more dwelling units;

“Highway” includes a common and public highway, highway, avenue, parkway, driveway, laneway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, and includes the area between the lateral property lines thereof, including sidewalks and boulevards, and Highways shall have a corresponding meaning;

“Multiple Offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of the By-law;

“Municipality” means the land within the geographic limit of the City;

“Officer” means a person designated by the City for the enforcement of this By-law and includes but is not limited to a Municipal Law Enforcement Officer employed by the City, an Ontario Provincial Police Officer, a York Regional Police Officer, or any other person authorized by the City to enforce or perform inspections pursuant to this By-law;

“Owner” means the registered Owner of the Property, and includes but is not limited to any Owner in trust, a mortgagee in possession, a person who is managing or receiving the rent of the Property, a tenant, lessee or a person who is an occupier or in control of the Property, and includes a Person, firm, partnership, corporation, company, association, or organization of any kind and its directors, officers and principal(s);

“Person” includes an individual, association, organization, partnership, municipality or corporation;

“Property” means a Building or part of a Building, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and fixtures thereon whether heretofore or hereafter erected, and includes vacant Property;

“Public Nuisance” means any activity on Property within the Municipality which results in any conduct that is likely to be unwanted and disturbing to persons, or that may cause an unsafe environment, or affect the well-being of persons or the enjoyment of Property, and includes any one or more of the following activities which are deemed to be a Public Nuisance:

- (a) disorderly conduct including spitting, screaming, yelling, shouting, or using profane or abusive language or gestures;
- (b) public drunkenness or public intoxication;
- (c) the unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
- (d) carrying open liquor;
- (e) the deposit of refuse on public or private property;
- (f) defacing, damaging, vandalizing or destruction of public or private property, including graffiti;
- (g) pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could cause public safety issues and/or interfere with the ability to provide emergency services;
- (h) unlawful open burning;
- (i) the discharging of fireworks except as authorized under the Corporation of the City of Markham By-law No. 2012-158;
- (j) public disturbances, including public brawls or public fights;
- (k) outdoor public urination or defecation;
- (l) leaving, throwing or depositing any refuse or litter;
- (m) sound that is unusual, unreasonable, or excessive, or that is likely to be unwanted by or disturbing to persons, including but not limited to loud music;
- (n) loitering;
- (o) any smoke that is excessive, or that is likely to be disturbing to persons;
- (p) a social gathering that is disturbing to persons or results in any activity that may be likely to be unwanted by or disturbing to persons; and
- (q) any other activity that may be likely to be unwanted by or disturbing to persons.

“Work Order” means an order issued under this By-law to a Person who contravened the By-law or who caused or permitted the contravention, or to the Owner of the Property where the contravention occurred, requiring the Person or Owner to do work to correct the contravention.

2.0 PROHIBITION AGAINST PUBLIC NUISANCE

2.1 No Person shall sponsor, conduct, continue, host, create, participate in, allow, cause, or permit any activity that constitutes a Public Nuisance on any Property.

2.2 No Person who, individually or jointly with others, is an Owner of any Property, shall allow, cause or permit a gathering that results in a Public Nuisance on said Property.

3.0 ORDER TO DISCONTINUE ACTIVITY

3.1 An Officer may issue an Order requiring:

- (a) any Person to discontinue the Public Nuisance ~~(the “Order”)~~;
- (b) to require any Person not residing on the Property to immediately leave the Property where the Public Nuisance is occurring.

3.2 An Order under this section shall identify:

- (a) the location of the Property on which the contravention occurred;
- (b) the reasonable particulars of the contravention of the By-law; and
- (c) the date and time by which there must be compliance with the Order.

3.3 An Order under this section may be given orally or in writing and may be served personally on the Person to whom it is directed or sent by regular mail to the last known address of that Person. Service on a corporation can also be effected by regular mail to the corporate mailing address as shown on the Corporation Profile report filed with the Ontario Ministry of Government Services for a Provincial Corporation, or on a Federal Corporate Search for a Federal Corporation, or on the assessment roll records of the City. If the Order is given by regular mail to the last known address of that Person, it shall be deemed to have been given on the third day after it is mailed. An Affidavit of Service shall be admissible in evidence in any proceeding as proof of service of mailing of the Order.

3.4 No Person shall fail to leave the Premises after having been directed to leave the Premises by an Order made under this By-law.

4.0 POWERS OF ENTRY AND INSPECTION

4.1 Officers and persons under their direction may at any reasonable time, or at any time when a Public Nuisance is occurring or alleged to be occurring, enter onto any Property to determine if the provisions of this By-law are being complied with or may enter onto any Property to carry out any remedial actions required to bring the Property into conformity with the By-law.

4.2 Officers are authorized for the purposes of inspection to determine compliance with the By-law to:

- (a) require any Person to produce for inspection all documents or things relevant to the inspection, including the removal of the documents for the purposes of making copies or extracts;
- (b) alone or in conjunction with a person possessing special or expert knowledge, make examinations, take tests, samples, audio recordings, video recordings, or photographs necessary for the purposes of inspection; and,
- (c) require information from any Person concerning a matter related to the inspection.

5.0 WORK ORDERS

5.1 Where a Person contravenes this By-law, an Officer may issue a Work Order to the Person or the Owner of the Property where the contravention occurred, directing them to do the work set out in the Work Order to correct the contravention. The Person or Owner shall repair, remove or clean up all contraventions identified on the Work Order within the time specified in the Work Order.

5.2 A Work Order shall set out:

- (a) the reasonable particulars of the contravention adequate to identify the contravention and the location of the Property on which the contravention occurred; and
- (b) the work to be done and the date by which the work must be done.

5.3 A Work Order may be served personally on the Person to whom it is directed or sent by regular mail to the last known address of that Person. Service on a corporation can also be effected by regular mail to the corporate mailing address as shown on the Corporation Profile report filed with the Ministry of Government Services for a Provincial Corporation, or on a Federal Corporate Search for a Federal Corporation, or on the assessment roll records of the City. If the Order is

given by regular mail to the last known address of that Person, it shall be deemed to have been given on the third day after it is mailed. An Affidavit of Service shall be admissible in evidence in any proceeding as proof of service of mailing of the Order.

6.0 FEES AND CHARGES FOR RECOVERY OF COSTS OF ENFORCEMENT

6.1 The City may impose a fee or charge upon any Person creating, causing, or permitting a Public Nuisance and/or against an Owner of a Premises where the Public Nuisance occurs who causes or permits the Public Nuisance.

6.2 The amount of said fee or charge shall be the amount of administrative costs, costs of enforcement and all other costs incurred by the City in responding to and addressing the Public Nuisance pursuant to this By-law.

6.3 Fees and charges imposed on a Person pursuant to this By-law constitute a debt of the Person to the City.

6.4 Where all the Owners of certain Premises are responsible for paying certain fees and charges pursuant to this By-law, the City may add such fees and charges to the tax roll for the Premises and collect them in the same manner as municipal taxes.

7.0 ENFORCEMENT

7.1 The provisions of this By-law may be enforced by an Officer.

7.2 An Officer who has reasonable grounds to believe that a Person has contravened any provision of this By-law may require that Person to provide identification of themselves.

7.3 Every Person who is required by an Officer to provide identification under section 7.2 shall identify themselves to the Officer. Giving their correct name, date of birth, and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer as per section 8.2 of this By-law.

8.0 OFFENCES

8.1 Any Person who contravenes or fails to comply with any provision of this by-law, an Order, a Work Order, or any other order issued pursuant this By-law is guilty of an offence.

8.2 No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law.

8.3 No Person shall fail to comply with any conditions or term of any Order, Work Order, or any other order issued under this by-law. If there is a contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.

9.0 ADMINISTRATIVE PENALTIES

9.1 Instead of laying a charge under the *Provincial Offences Act* for a breach of any provision of this By-law, an Order, a Work Order, or any other order issued pursuant this By-law, an Officer may issue an Administrative Penalty to the Person in breach.

9.2 The Officer has the discretion to either proceed by way of an Administrative Penalty or a charge laid under the *Provincial Offences Act*. If an Administrative Penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.

9.3 The amount of the Administrative Penalty for a breach of a provision of, or Order issued, under this by-law is fixed as set out in By-Law No. 2015-93, A By-law to Implement an Administrative Monetary Penalty System in Markham, as amended, or any successor by-law.

9.4 A Person who receives an Administrative Penalty shall be subject to the procedures as provided for in By-Law No. 2015-93, A By-law to Implement an Administrative Monetary Penalty System in Markham, as amended, or any successor by-law.

10.0 REBUTTABLE PRESUMPTION

10.1 An Owner shall be presumed to have created, caused, allowed, permitted or continued a Public Nuisance, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

11.0 PENALTIES

11.1 Pursuant to Section 429 of the *Municipal Act*, every Person who is guilty of an offence under this By-law shall be subject to the following penalties:

- a) Upon a first conviction, to a fine of not less than \$500.00 and not more than \$50,000.00.
- b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$500.00 and not more than \$100,000.
- c) Upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may not exceed \$100,000.00.
- d) Upon conviction of a Multiple Offence, for each offence included in the Multiple Offence, to a fine of not less than \$100.00 and not more than \$10,000. The total of all fines for each included offence is not limited to \$100,000.

11.2 Where a Person convicted of an offence is a corporation, the corporation is liable to a fine not less than \$500.00 and not more than \$100,000.00.

12.0 COLLECTION OF UNPAID FINES

12.1 Pursuant to Subsection 441.1 of the *Municipal Act*, the treasurer of a municipality may add any part of a fine for a commission of a provincial offence that is in default under Section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality of which all of the owners are responsible for.

13.0 SEVERABILITY

13.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

14.0 CONTINUATION, REPETITION PROHIBITED BY ORDER

14.1 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

15.0 INTERPRETATION

15.1 The provisions of Part VI of the *Legislation Act, 2006*, S.O. 2006, c. 21, Sched. F shall apply to this By-law.

16.0 SHORT TITLE OF BY-LAW

16.1 This By-law may be referred to as the "Public Nuisance By-law".

17.0 FORCE AND EFFECT

17.1 This By-law, except section 9, shall come into force and effect on the day it is passed.

Read a first, second and third time and passed on _____, 2018

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor

Appendix 'E'



BY-LAW 2018-____

A By-law to amend By-laws 1229, 1442, 507, 1767, 1914, 2053, 2150, 2237, 2284-8, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96, as amended

The Council of the Corporation of the City of Markham hereby enacts as follows:

- 1.0 By-laws 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196, as amended, are hereby amended by:

- 1.1 adding the following definitions which shall apply for the purpose of applying Section 1.2 of this By-law only:

“Dwelling Unit” means a unit consisting of one or more rooms, which contains cooking, eating, living and sanitary facilities and is not a rooming house.

“Short-term rental accommodation” means an establishment that operates as or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for overnight accommodation, for one or more periods of less than 30 consecutive days, and not more than 180 total days over the duration of the calendar year, within a single

dwelling that is the *principal residence* of the proprietor of the establishment.”

“*Principal residence*” is a *dwelling unit* where an individual lives, makes their homes, and conducts their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including without limitation, income tax returns, medical documentation, driver’s licenses, personal identification, vehicle registration and utility bills.

- 1.2 adding the following provisions, which shall apply notwithstanding any other provisions contained within the aforementioned by-laws:
 - a) one *short term accommodation* is permitted in any dwelling unit subject to the following:
 - i) That the *short-term rental accommodation* is located in a *principle residence*;
 - b) Table B of By-law 28-97, as amended, shall not apply to any *short-term rental accommodation*.
- 2.0 All other provisions of By-laws 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94, 177-96, and 2004-196, as amended, not inconsistent with the provisions of this By-law 2017-_____, shall continue to apply.

Read a first, second and third time this _____ day of _____, 2018.

Kimberley Kitteringham,
City Clerk

Frank Scarpitti,
Mayor

Appendix 'F'



BY-LAW 2018-_____

By-law to register Second Suites

WHEREAS Section 16(3) of the Planning Act, S.O., 1990, c. P.13, as amended, requires municipalities to implement official plan policies authorizing the use of secondary dwelling units;

WHEREAS Section 35.1(1) of the Planning Act, S.O., 1990, c. P.13, as amended, requires that by-laws passed under section 34 give effect to the policies described in subsection 16(3) of that Act;

WHEREAS the City of Markham has added policies under Section 4.1.2.6 of the City of Markham Official Plan in order to comply with these Planning Act requirements;

WHEREAS the City of Markham has amended the area zoning by-laws by By-law 2018-_____ in order to comply with these Planning Act requirements;

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

WHEREAS Section 11(2) (6) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes municipalities to pass by-laws respecting the health, safety and well-being of persons and the protection of persons and property;

The Council of The Corporation of the City of Markham considers it important to enact a by-law to require the registration of secondary dwelling units in detached houses, semi-detached houses, and *Row Houses* in the City of Markham in order to protect persons, property and the health, safety and well-being of Markham residents;

NOW THEREFORE the Council of The Corporation of the City of Markham
ENACTS as follows:

1. DEFINITIONS

For the purpose of this By-law only, the following definitions shall apply:

“Chief Fire Official” means the Municipal Fire Chief or a member or members of the fire department designated by the Municipal Fire Chief or a person appointed by the Fire Marshal under Division C of subsection 1.1.1. of Ontario Regulation 213/07 - The Ontario Fire Code, as amended.

“Detached house” means a single residential structure which contains no more than two *dwelling units*.

“Dwelling Unit” means a unit consisting of one or more rooms, which contains cooking, eating, living and sanitary facilities and is not a rooming house.

“Floor Area” mean the aggregate of the areas of each floor of a *dwelling unit* above or below established grade, measured between the exterior faces of the exterior walls, but not including the floor area of a private garage.

“Owner” means a person who is the registered owner, authorized in writing to act as agent for the registered owner, or managing or receiving the rent of a building or structure that is a *detached house*, *semi-detached house*, or *Row House* that contains both a *principal dwelling unit* and *secondary dwelling unit*.

“Principal Dwelling Unit” means a *dwelling unit* that has a *floor area* that is greater than the *floor area* of the other unit in the same building.”

“Secondary Dwelling Unit” means a *dwelling unit* that has a *floor area* that is less than the *floor area* of the other unit in the same building.”

“Registrar” means the *Chief Fire Official* or his or her designate.

“Semi-detached house” means a residential structure which is one of two horizontally attached residential structures and is separated vertically from the other residential structure by a common wall which does not provide for internal access from the living space in one structure to the other.

“Row House” means a residential structure which is one of a group of three or more horizontally attached residential structures and is separated vertically from one or two of the other structures by common walls which do not provide for internal access from the living space in one structure to another.

2. APPLICATION

This by-law applies to a *detached house*, *semi-detached house* or *Row House*, containing two *dwelling units* where permitted by Section 35.1 (1) of the Planning Act R.S.O. 1990 c. P 13, as amended.

3. PROHIBITION

No person shall occupy or permit the occupancy of more than one *dwelling unit* in a *detached house*, *semi-detached house* or *Row House* unless the building or structure is registered as required by this By-law.

4. REGISTRATION

Every person who intends to occupy or permit the occupancy of more than one *dwelling unit* in a *detached house*, *semi-detached house*, or *Row House* shall ensure that the building or structure is registered for a *secondary dwelling unit* as required by this By-law.

Registration and Registration Renewal:

- (1) every *dwelling unit* in a *detached house*, *semi-detached house*, or *Row House* involving a *secondary dwelling unit* shall be inspected as required to ensure that it complies with all relevant standards determined to be applicable, as set out in the Ontario Building Code; Ontario Fire Code; applicable Zoning By-law; and Property Standards By-law, all as amended from time to time;
- (2) every *dwelling unit* in a *detached house*, *semi-detached house*, or *Row House* involving a *secondary dwelling unit* may be subject to a registration renewal not less than five (5) years from the date of the last registration date under this By-law, or as required by the *Registrar*;
- (3) every *dwelling unit* in a *detached house*, *semi-detached house*, or *Row House* involving a *secondary dwelling unit* shall be subject to investigations by and comments or recommendations from the municipal or provincial department or agencies as the *Registrar* deems necessary prior to the time of registration, or renewal of registration;
- (4) the *owner* shall ensure that every *dwelling unit* in a *detached house*, *semi-detached house*, or *Row House* involving a *secondary dwelling unit* complies with all relevant standards, as set out in subsection 4(1) of this By-law;

- (5) the *owner* shall pay a non-refundable registration fee together with the applicable inspection fees, and registration renewal fees, as set out in the fee By-law XXXX or its successor;
- (6) every *dwelling unit* in a *detached house*, *semi-detached house*, or *Row House* involving a *secondary dwelling unit* that exists prior to the date of the passing of this By-law and is legally permitted under the applicable Zoning By-law and registered under City of Markham By-law 308-97 shall not be required to be registered under this By-law until such time as this By-law replaces and repeals By-law 308-97. The *owner* of such *secondary dwelling units* shall be subject to registration renewal fees and applicable inspection fees, as set out in Schedule A to this By-law;
- (7) every *dwelling unit* in a *detached house*, *semi-detached house*, or *Row House* involving a *secondary dwelling unit* that exists prior to the date of the passing of this By-law and is legally permitted under the applicable Zoning By-law, but is not registered under City of Markham By-law 308-97, shall be required to be registered under this By-law at such time as this By-law replaces and repeals By-law 308-97. The *owner* of such *secondary dwelling units* shall be subject to registration fees together with the applicable inspection fees, and registration renewal fees, as set out in Schedule A to this By-law.
- (8) the *owner* shall identify the number of bedrooms within each unit, as approved through the building permit.
- (9) the *owner* shall provide proof of insurance for the *secondary dwelling unit*.

5. REFUSAL AND REVOCATION

The *Registrar* may refuse to register, or register renewal, any *secondary dwelling unit* which does not meet the requirements set out in this By-law. The *Registrar* may revoke the registration, or registration renewal, of any *secondary dwelling unit* which, at any time after registration, ceases to meet the requirements set out in this By-law and the Ontario Fire Code as amended or where the *owner* has not carried on the activity with honesty and integrity; has violated any law or By-law; is conducting activity in such a way that would infringe on the rights of other members of the public; or has or would endanger the health or safety of other members of the public.

The onus of proving that a *secondary dwelling unit* meets the requirements set out in this By-law is on the *owner* of the building or structure.

6. NOTIFICATION OF REVOCATION

- (1) Where the *Registrar* revokes the registration, or registration renewal, of a *secondary dwelling unit*, he/she shall notify the owner of the building or structure of such revocation, and provide a brief explanation of the reason for the revocation.
- (2) Notice may be sent by regular mail to the address of the building or structure, or the address of the *owner* of the building or structure.

7. OFFENCE

Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

8. REPLACE AND REPEAL OF PREVIOUS BY-LAW

- (1) This By-law shall replace City of Markham By-law 308-97 upon its adoption by Council of the City of Markham.
- (2) By-law 308-97 shall be repealed and replaced by this By-law.

READ A FIRST AND SECOND TIME THIS ____ DAY OF _____,
2018.
READ A THIRD TIME AND PASSED THIS ____ DAY OF _____,
2018.

KIMBERLY KITTINGHAM

FRANK SCARPITTI, MAYOR

Appendix 'G'



BY-LAW 2018-_____

A By-law to amend By-laws 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-8, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96, as amended

The Council of the Corporation of the City of Markham hereby enacts as follows:

- 1.0 By-laws 1229, 1442, 1507, 1767, 1914, 2053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96, as amended, are hereby amended by:

- 1.1 adding the following definitions which shall apply for the purpose of applying Section 1.2 of this By-law only:

"Detached house" means a single residential structure containing no more than two dwelling units.

"Floor Area" means the aggregate of the areas of each floor of a dwelling unit above or below established grade, measured between the exterior faces of the exterior walls, but not including the floor area of a private garage.

"Main Wall" means the exterior front wall of a building and all structural components essential to the support of a fully enclosed space.

"Principal Dwelling Unit" means a dwelling unit that has

a floor area that is greater than the floor area of the other unit in the same building.

"Semi-detached house" means a residential structure which is one of two horizontally attached residential structures and is separated vertically from the other residential structure by a common wall which does not provide internal access from the living space in one structure to the other.

"Secondary Dwelling Unit" means a dwelling unit that has a floor area that is less than the floor area of the other unit in the same building.

"Streetline" means the boundary between a public street and a lot.

"Townhouse" means a residential structure which is one of a group of three or more horizontally attached residential structures and is separated vertically from one or two of the other structures by common walls which do not provide for internal access from the living space in one structure to another.

- 1.2 adding the following provisions, which shall apply notwithstanding any other provisions contained within the aforementioned by-laws:
 - a) one secondary dwelling unit is permitted in a detached house, semi-detached house or townhouse in any Zone excluding the area shown on Schedule A attached, subject to the following:
 - i) both the principal dwelling unit and the secondary dwelling unit are wholly contained within the same detached house, semi-detached house or townhouse;
 - ii) there are no more than two dwelling units in the same detached house, semi-detached house or townhouse;
 - iii) there are no more than two dwelling units on the same lot;

- iv) a principal dwelling unit and a secondary dwelling unit shall each have a floor area of 35m² or greater; and
- v) only one dwelling entrance is contained within any main wall facing a streetline.

- b) Table A, Row G of By-law 28-97, as amended, shall not apply.

2.0 All other provisions of By-laws 1229, 1442, 1507, 1767, 1914, 2 053, 2150, 2237, 2284-68, 2402, 2489, 2551, 2571, 2612, 11-72, 122-72, 77-73, 83-73, 84-73, 119-73, 151-75, 88-76, 127-76, 250-77, 145-78, 162-78, 163-78, 184-78, 72-79, 91-79, 118-79, 134-79, 153-80, 165-80, 72-81, 90-81, 108-81, 193-81, 221-81, 28-82, 194-82, 196-82, 47-85, 304-87, 19-94 and 177-96, as amended, not inconsistent with the provisions of this By-law 2017-_____, shall continue to apply.

Read a first, second and third time this _____ day of _____, 2018.

Kimberley Kitteringham,
City Clerk

Frank Scarpitti,
Mayor

Appendix 'H'

FINANCIAL CONSIDERATIONS:Second Suites

The following flowcharts detail the workflow, staff hours and associated cost, and current fees charged under two scenarios: New second suites and Existing Second Suites. Note both these flow charts assume an 80 m² second suite and that the second suite owner is co-operative and performs all requirements to bring their unit up to code correctly the first time. Otherwise, additional staff time and associated costs would be incurred for further re-inspections.

<u>New Second Suite Process</u>	<u>Staff Hours</u>	<u>Cost</u>	<u>Current Charge</u>	<u>Shortfall</u>
<div>BUILDING PERMIT PROCESS</div> <div>OCCUPANCY GRANTED</div> <div>BY-LAW EXTERIOR PROPERTY INSPECTION</div> <div>REGISTRATION</div>	15	\$ 1,276	\$ 916	\$ (360)
	6	\$ 470	\$ -	\$ (470)
	21	\$ 1,746	\$ 916	\$ (830)

<u>Existing Second Suite Process</u>	<u>Staff Hours</u>	<u>Cost</u>	<u>Current Charge</u>	<u>Shortfall</u>
FIRE INSPECTION PROCESS	20	\$ 1,969	\$ 509	\$(1,460)
BUILDING PERMIT PROCESS	15	\$ 1,276	\$ 916	\$ (360)
OCCUPANCY GRANTED				
BY-LAW EXTERIOR PROPERTY INSPECTION	6	\$ 470	\$ -	\$ (470)
REGISTRATION				
	41	\$ 3,715	\$ 1,425	\$(2,290)

Note: In addition to the current charges shown in the flowcharts, the City also charges a \$1,610 Change of Use fee that will be eliminated once Second Suites are approved by Council.

As outlined in the flow charts, staff are aware of what an average individual registration process would cost. However, estimating the annual cost to administer a Second Suite Registration Program is highly dependent upon the number of applications and complaints that require investigation. Unfortunately, predicting annual volumes is a difficult undertaking. For example, cities such as Brampton and Mississauga have both legalized Second Suites in the last few years. Mississauga, with a population of over 700,000, have only registered 355 units. Conversely, Brampton, with a population of under 600,000, have registered 2,561 registered units. As such, attempting to estimate volumes based on other municipalities' experiences is not practical, so staff need to look internally for a forecast. Based on Markham's recent history of calls to investigate second suites, staff are forecasting approximately 75 investigations/year. However, there is the possibility of a much higher volume depending on a number of factors:

- Cost to register a second suite/amnesty period
- Proactive vs Reactive enforcement
- Interest of second suite owners to get their units registered

The following table details the additional staffing levels required and total costs for different annual volumes as well as the annual operating shortfalls that the City would incur assuming different levels of cost recovery:

Annual Volume		15	75	135	195	255	315	375
Additional Staffing:								
Fire		0.00	1.00	2.00	3.00	4.00	5.00	6.00
Building		0.00	0.31	1.06	1.81	2.56	3.31	4.06
By-Laws		0.00	0.13	0.43	0.73	1.03	1.33	1.63
Total Cost		\$ 55,730	\$ 278,649	\$ 501,568	\$ 724,487	\$ 947,407	\$ 1,170,326	\$ 1,393,245
	Fee							
Current Shortfall (38% Cost Recovery)	\$ 1,425	\$ 35,221	\$ 174,156	\$ 313,480	\$ 452,805	\$ 592,129	\$ 731,454	\$ 870,778
Shortfall @ 50% Cost Recovery	\$ 1,858	\$ 27,865	\$ 139,325	\$ 250,784	\$ 362,244	\$ 473,703	\$ 585,163	\$ 696,623
Shortfall @ 75% Cost Recovery	\$ 2,786	\$ 13,932	\$ 69,662	\$ 125,392	\$ 181,122	\$ 236,852	\$ 292,581	\$ 348,311
Shortfall @ 100% Cost Recovery	\$ 3,715	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Note: The current 38% cost recovery excludes the \$1,610 Change of Use Fee that will be eliminated once Second Suites are approved by Council.

It is important to note that the recoveries hold true if the annual volumes are somewhat consistent year to year. Fire Prevention Officers account for approximately 50% of the total workload involved in registering existing Second Suites. Contract staff cannot be used for Fire operations. As a result, any Fire staff hired to handle peak volumes will remain with the City even if annual volumes drop. To avoid a significant long term financial burden, it is important to try to minimize the year to year fluctuations in volume. Starting with a full cost recovery, reactive enforcement and no amnesty period are ways to help reduce the risk of peak volumes that would result in long term expenses.

Administrative Cost Recovery

It is estimated that there are 4,000 to 8,000 existing second suites in Markham. If an assumption is made that there is an average of 2 people residing in each second suite, then that equates to 8,000 to 16,000 additional people for which Markham has had to build infrastructure and provide services. Current property taxes and Development Charge rates per capita provide a good approximation of the cost of infrastructure and services to the City for each person in the City. By applying the per capita rates to the estimated 8,000 to 16,000 existing residents in second suites that have paid no Developments Charges and little to no additional property taxes, it is estimated that the net operating costs incurred by the City for people living in second suites is \$2.3M to \$4.7M per year and the foregone Development Charges are approximately \$70M to \$140M (using current rates). These expenses have had to have been allocated to other Markham residents and businesses.

Given that second suites already result in financial costs to other residents, staff are recommending a full cost recovery model for the inspection and registration of second suites so that existing taxpayers are not further impacted. For an 80 m² second suite, this would increase the charge by 24% from \$3,034.50 (including the Change of Use Fee) to

\$3,755.00 (note: the \$3,755 is slightly higher than the \$3,715 cost recovery amount in the above table as the fees have been rounded up slightly). Refer to the table below for how Markham's current and proposed fees compare to other municipal comparators:

Municipality	Registration Fee*	Property Standards Inspection Fee	Fire Inspection Fee	Building Fees
Mississauga	No Charge	No Charge	\$147.81	Change of Use - \$134/hr and a \$299 minimum Building Permit - \$5.75/Sq. m.
Newmarket	\$250	Included in the Registration Fee	\$221	Flat Rate of \$400
Barrie	\$215	\$149/hr (min. 5 hours)	\$240.30	Change of Use - 3.00/ Sq. m.
Brampton	\$500 (if the owner resides) \$1,000 (if not) and a \$200 non-refundable planning review fee	No Charge	\$450	Change of Use - \$99/hr (\$397 minimum) Building Permit - \$9/Sq. m. (\$220 minimum)
Markham (Current)	Minor Variance Fee = \$1,610	No Charge	\$508.50	Building Permit = \$11.45/Sq. m.
Markham (Proposed)	No Charge (included in Fire fees)	\$475	\$2,000	Building Permit = \$16.00/Sq. m.

Furthermore, it is recommended that both By-Laws and the Fire Department implement an Additional Re-Inspection fee of \$100/hour to be consistent with the existing Building Department Additional Re-inspection Fee. These fees are to recover staff costs for any second suite owner that does not observe the orders the first time around.

As with the existing process, if staff become aware of an unregistered second suite, Fire and/or Building would issue orders to initiate the process. The owner would then have a legislated time period to comply and go through the registration process. If the registration process is not initiated, the City would proceed with legal action. Because Markham does not have any control over the fine amounts set by the courts, this part of the process will likely never be full cost recovery.

Staffing

Staff are seeking Council authority to add an additional Fire Prevention Officer and associated vehicle, which would allow for up to 75 inspections of existing second suites a year (taking into account nominal existing capacity). Volumes would be monitored and staffing levels (including By-Laws and Building departments, as well as Fire) may need to be adjusted as volumes become more well known.

Financial Recommendations for Second Suites

That Council approve an increase in the Fire Department full-time complement, for the hiring of one additional Fire Prevention Officer and associated vehicle;

AND THAT Council approve the following proposed fee increases and new fees, through amendments to By-laws 2013-163 and 2002-181, effective upon the implementation of the Second Suite Registration program:

Department	Fee	Current	Proposed
Fire	Two Unit Residential Inspection Fee	\$339.50	\$1,800.00
	Two Unit Residential Registration Fee	<u>\$169.50</u>	<u>\$200.00</u>
		\$508.50	\$2,000.00
	Multiple Occupancy Residential Additional Re-inspection Fee	\$163.85/inspection	\$100.00/hour
By-Laws	Second Suite Property Inspection Fee	None	\$475.00
	Second Suite Additional Re-Inspection Fee	None	\$100.00/hour

AND THAT the Building Department adjust their Accessory Apartment Fee, with an estimated increase from \$11.45/Sq. m. to \$16.00/Sq. m., during the next Fee By-law update, following a statutory public meeting in compliance with the Building Code Act, to achieve full cost recovery based on volume;

AND THAT staff monitor the volumes and impacts of Second Suites and Short-term Accommodations and, if necessary, bring forward charges to staffing levels and/or fees to attempt to maintain full administrative cost recovery when deemed appropriate.

TABLE 'A'
Criterion Considered in evaluating Rooming Houses

Rooming Houses		
Criteria Considered	Staff Comments	City of Toronto
Not Permitted except through Re-Zoning	<p>1. Anyone can apply to the Committee of Adjustment even if Official Plan directs that the proposal should be evaluated through a rezoning application.</p> <p>2. The Official Plan can be amended to include provisions for approval of a Rooming House by Zoning By-law Amendment rather than the Committee of Adjustment.</p> <p>3. However, if an application is made, the COA may make a decision to approve and if so, that decision may be appealed.</p> <p>Conclusion: Staff recommend OP provision requiring re-zoning and no as of right permission in Zoning By-law.</p>	<p>1. Only permitted certain zones in the former cities of York, Toronto and Etobicoke.</p> <p>2. Rooming houses that operate in Toronto and Etobicoke must be licensed.</p> <p>3. City Staff are currently conducting a study that seeks to expand permissions for rooming houses to other residential zones in Scarborough, East York and North York.</p>
Locational Requirements	<p>1. All Arterial roads within the "Urban Boundary" of Markham are well served by public transit.</p> <p>2. Restricting Rooming Houses to single detached, semi detached and townhouses in designated residential areas that front onto and have sole vehicular access from an arterial road within the "Urban Boundary", is appropriate as residents of Rooming Houses may be less likely to own motor vehicles and rely more heavily on public transit than other residents of the City.</p> <p>Conclusion: Staff recommend restricting Rooming Houses to single detached, semi detached and townhouses in designated residential areas that front onto and have sole vehicular access from an arterial road within the "Urban Boundary".</p>	<p>In Etobicoke:</p> <p>1. Is in a building originally constructed as a detached house;</p> <p>In former City of Toronto:</p> <p>1. Is in the whole of a building originally constructed as a detached or semi detached house;</p>

Rooming Houses		
Criteria Considered	Staff Comments	City of Toronto
Parking Considerations	<p>1. Single detached, Semi Detached and Townhouse dwellings require two parking spaces for each dwelling.</p> <p>2. Requiring an additional one (1) or two (2) spaces may be excessive and have a negative impact on the streetscape (reduction in soft surfaces).</p> <p>3. Demand for parking spaces will be constrained by availability, particularly as on-street parking is typically restricted or not permitted in Markham.</p> <p>4. Rooming Houses will need to comply with the driveway width standards of Markham's Extended Driveway By-law.</p> <p>Conclusion: Staff recommend not applying standard parking requirements, however require sites to be located near public transit. Let an individual application be reviewed based on its own merits to determine if appropriate parking is provided on site for the scale proposed.</p>	<p>1. 1 parking space for each 3 rooms in former Cities of Toronto and York.</p> <p>2. In Etobicoke—1 space for the owner and 1 space for every 2 units.</p> <p>3. Staff have proposed that in the new by-law the standard be changed to 1 for every 4 rooms in most of the City and 1 for every 6 rooms in the downtown.</p>
Distance Separations	<p>1. It is not advised to prescribe minimum distance separations to rooming houses in the OP or Zoning By-law as it will be seen as discriminatory and likely violates the Ontario Human Rights Code.</p> <p>Conclusion: Staff recommend not applying distance separation to rooming houses.</p>	<p>1. Etobicoke has a 300 metre distance separation, which is being reviewed as part of the City wide review of rooming houses.</p>

Rooming Houses		
Criteria Considered	Staff Comments	City of Toronto
Restrict to Key Development/Intensification Areas	<p>1. Only providing for rooming houses in Intensification/Key Development Areas is problematic as existing housing stock in these areas is not typically conducive to rooming house built forms (i.e. singles, semi's and towns).</p> <p>2. Directing rooming houses to these areas would likely extend the "life" of these underdeveloped properties which would be inconsistent with the vision of these areas for more intensive lands uses.</p> <p>Conclusion: Staff recommend not restricting opportunities for rooming houses to Intensification/Key Development Areas only. Let an individual application be reviewed based on its own merits.</p>	1. Not applicable/considered
Prohibit use in Duplex, Triplex, Fourplex and Apartments	<p>1. Use is not appropriate in Duplex, Triplex, Fourplex and Apartments as they are already intensive uses.</p> <p>Staff recommend that the OP prohibit Rooming Houses (Large or Small) in these dwelling types.</p>	

TABLE 'B'
Criterion Considered in evaluating Second Suites

Criteria Considered	Second Suites Staff Comments	City of Toronto
Parking Considerations	<ol style="list-style-type: none"> 1. Single detached, Semi Detached and Townhouse dwellings require two (2) parking spaces for each dwelling. 2. Requiring an additional space may be excessive and have a negative impact on the streetscape (reduction in soft surfaces). 3. Requiring additional parking would prohibit a Second Suite in many newer homes that only have two (2) parking spaces. 4. Demand for parking spaces will be constrained by availability, particularly as on-street parking is typically restricted or not permitted in Markham. 5. Dwellings containing a second suite will need to comply with the driveway width standards of Markham's Extended Driveway By-law. <p>Conclusion: Staff recommend not requiring additional parking for second suites.</p>	<p>Secondary Suite - Parking Space Requirement in an R Zone</p> <ol style="list-style-type: none"> 1. No parking space is required for one secondary suite. 2. In all other zones 1 parking space per unit.
Minimum/Maximum Size of Second Suite	<ol style="list-style-type: none"> 1. Based on research done in other municipalities, having a minimum floor area of 35m² (377ft²) is appropriate. <p>Conclusion: Staff recommend this criteria</p>	<ol style="list-style-type: none"> 1. Only required to have a floor area that is less than the primary unit.

Second Suites		
Criteria Considered	Staff Comments	City of Toronto
Entrances	<p>1. Permitting only one entrance to the dwelling that faces the street will ensure that the physical character of the neighbourhood will not be affected by the introduction of a second suite.</p> <p>2. Second entrance may be considered through site specific development proposal (By-law Amendment or Minor Variance)</p> <p>Conclusion: Staff recommend this criteria.</p>	<p><u>Secondary Suite - Addition or Exterior Alteration</u></p> <p>1. Minor alterations are permitted provided that it does not significantly alter or add to the front of the dwelling.</p>
Registration	<p>1. Second suites that legally existed prior to November 16, 1995, must be registered as a two unit dwelling with the Fire and Emergency Services Department under the City's Registration By-law.</p> <p>2. The Registration By-law would need to be amended in order to apply to secondary suites that would become legal once the zoning by-law amendment is approved.</p> <p>3. Permitting and Registering second suites is the most effective way to ensure that the units are safe.</p> <p>Conclusion: Staff recommend requiring all second suites to be registered and therefore, recommend amending the Registration By-law.</p>	<p>1. No registration required.</p>