



By-law 2018-57

A 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 2018-57 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 Assistants to the Fire Marshal pursuant to the Fire Protection and Prevention Act, as amended.

“*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, or linked underground, 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, including but not limited to, 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 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 2002-276 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 By-law 2002-276, and 2012-137, as amended, or their successors.
- (8) Upon registration, the number of permitted bedrooms within each unit will be confirmed, and documented.
- (9) the *owner* shall provide the following
 - i) a floor plan for all *dwelling units* showing existing rooms and spaces, and identifying the use of each room and space
 - ii) proof of insurance for the *secondary dwelling unit*
 - ii) any other documents deemed necessary by the *Registrar* to confirm compliance with applicable laws

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

- (1) Every person who contravenes any of the provisions of this By-law is guilty of an offence.

8. PENALTIES

- (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:
 - (1) Upon a first conviction, to a fine of not less than \$500.00 and not more than \$50,000.00.
 - (2) 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.
 - (3) 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.
 - (4) 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.
- (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.

9. ADMINISTRATIVE PENALTIES

- (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.
- (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.
- (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. 2016-84, A By-law to Implement an Administrative Monetary Penalty System for Non-Parking Offences, as amended, or any successor by-law.
- (4) A Person who receives an Administrative Penalty shall be subject to the procedures as provided for in 2016-84, A By-law to Implement an Administrative Monetary Penalty System for Non-Parking Offences, as amended, or any successor by-law.

10. FEES AND CHARGES FOR RECOVERY OF COSTS OF ENFORCEMENT

- (1) The City may impose a fee or charge upon any *Owner* who has failed to comply with any provision of this by-law.
- (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 a contravention of any provision of this By-law.
- (3) Fees and charges imposed on an *Owner* pursuant to this By-law constitute a debt of the *Owner* to the City.
- (4) Where all the *Owners* of certain Property 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 Property and collect them in the same manner as municipal taxes.

11. ENFORCEMENT

- (1) The provisions of this By-law may be enforced by the *Registrar*.

12. 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, second and third time and passed this 29th day of May, 2018.



Kimberley Kitteringham
City Clerk



Frank Scarpitti
Mayor