
TO: GENERAL COMMITTEE

SUBJECT: SECOND SUITE REGISTRATION BY-LAW UPDATE

PREPARED BY AND KEY CONTACT: M. GALLAGHER, ZONING OFFICER, EXT. 4357

SUBMITTED BY: M. BANFIELD, RPP, DIRECTOR OF PLANNING AND BUILDING SERVICES, EXT. 5466

GENERAL MANAGER APPROVAL: A. MILLER, RPP, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT, EXT. 4485

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That By-law 2004-025 to establish a Registration By-law for Two-Unit Houses be repealed and replaced with a By-law generally in accordance with the attached draft included as Appendix "A" to Staff Report PLN017-19.

PURPOSE & BACKGROUND

Purpose

2. The purpose of this Staff Report is to provide information and propose amendments to the City of Barrie's current policies and regulations regarding the registration of two-unit houses and second suites.

Background

3. The *Strong Communities through Affordable Housing Act* (2011, Bill 140) includes actions to address housing affordability in the Province of Ontario. Part of those amendments requires municipalities to establish official plan and zoning by-law provisions to allow second suites in single detached, semi-detached and townhouse dwellings.
4. The City's Official Plan, through Official Plan Amendment No. 51 passed in 2015, established the permission for second suites throughout the City of Barrie, except in the Georgian Neighbourhood Study Boundary Area.
5. The City's Zoning By-law 2009-141, as amended by By-law 2015-056 and 2017-079, established the permission of second suites throughout Barrie's residential areas, except in the Georgian Neighbourhood Study Boundary Area.
6. Proposed amendments to the City's Official Plan and Zoning By-law as it relates to second suites in the Georgian Neighbourhood are outlined in Staff Report PLN041-19 to be considered by Planning Committee at a future date in 2020.
7. The amendments proposed in this report would apply to second suites across the City.

By-law 2004-025 – Registration By-law for Two-Unit Houses

8. The registration By-law for two unit houses was passed by Council on January 12, 2004. This By-law requires that all houses that contain two residential dwelling units be registered in accordance with the By-law.
9. The intent behind this two unit house registration was to ensure that all residential dwelling units with two unit are legally created and meet proper safety requirements at the time of registration. The scope of the wording in this By-law, however, also captures legally established buildings with two units; such as duplex dwellings. When constructed as designed with two units, these buildings would be created via a building permit, which would have met zoning and building standards at that time. These units also do not operate as second suites and should not be registered as second suites if they are a duplex unit.
10. City staff believe that it is necessary to specifically capture accessory dwelling units, or second suites, within a registry, rather than applying to the broad term of two-unit houses, which may include duplexes.
11. The current Registration By-law for Two-Unit Houses from 2004 requires updating to reflect that change and also due to changes in legislation as well as City standards and procedures.

Health and Safety Standards

12. In addition to land use regulations enforced by the City's Comprehensive Zoning By-law 2009-141, there are provincial and municipal standards enforced by the municipality to protect the health and safety of the occupants of buildings, including special requirements for second suites, such as:
 - a) The Ontario Building Code for construction and/or any change of use (Parts 2, 6, 9, 10 and 11);
 - b) The Ontario Fire Code for Two-unit houses that existed on April 14, 1994 (Part 9) and for the fire protection maintenance of all buildings (Part 2);
 - c) The Minimum Property Maintenance and Occupancy Standards By-law 2011-138 (referred to as the Property Standards By-law); and,
 - d) The Electrical Safety Code, managed by the Electrical Safety Authority, regulates the alterations to electrical services.
13. The conversion of a single dwelling unit to contain a second suite usually involves the creation of living space and bedrooms in a basement or lower level, the installation of a kitchen, a bathroom, and the creation of a separate entrance. Converted spaces may also include garages, attics, portions of a floor, or detached accessory structures.
14. Often, alterations to the building, plumbing system and electrical system are performed without permits or inspections, even though permits are required.
15. As noted in paragraph 12, various inspections and approvals are required to be completed to ensure compliance prior to the second suite registration. Details of those inspections or requirements are outlined below:
 - a) Compartmentation of each dwelling unit

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- Create a barrier for fire and smoke for all ceilings, walls and doors that separate one dwelling unit from the other and between any common spaces.
 - Any doors within any barrier wall need to be of a solid core instead of the standard hollow core.
 - b) Early warning for the occupants
 - Smoke alarms that are hard wired to an electrical circuit, must be installed:
 - i. Within each unit immediately adjacent to any sleeping rooms;
 - ii. On every floor level immediately adjacent to any stairway;
 - iii. In any common area; and
 - iv. To be interconnected with all other smoke alarms in the building.
 - c) Safe exits for occupants
 - Each dwelling unit must be provided with at least one exit that leads directly to an exterior exit door.
 - d) Electrical and plumbing changes
 - All new electrical outlets and plumbing alterations must be inspected to ensure safe installation and operation.
 - e) Heating and ventilation
 - All rooms be capable of providing and maintaining a minimum heat of 20°C.
 - All habitable rooms must provide either natural ventilation (window that opens) or mechanical ventilation (supply and exhaust vents) to meet minimum requirements.
 - f) General maintenance
 - All floor, wall and ceiling finishes must be maintained in good working order.
 - All plumbing and electrical fixtures must be maintained in good working order.
 - All bedrooms and living rooms must be provided with adequate windows or daylight.
16. When second suites have been created without permits they generally do not comply with the health and safety regulations. This is concerning from a health and safety perspective as well as possible property standards and parking standards.

ANALYSIS

17. Staff are recommending within this report to maintain the overall approach of registration outlined in the Two-Unit House By-law. The proposed changes to the By-law amend the scope of what types of buildings need to be registered for structures containing second suites.
18. This change will more appropriately target subordinate units, most of which will be created after the original construction of the principal dwelling.
19. Once registered a second suite remains registered without payment of any renewal or other fees, unless registration is revoked.
20. The draft Registration By-law stipulates the conditions to refuse and revoke registration of second suites, as well as providing clearer penalty options.
21. If revoked, registration would be required again subject to all required inspections and fees.
22. Details on how and when to revoke registration based on compliance with standards will be established with an implementation plan for new second suites into 2020.
23. The elements contained within the Implementation Plan respond to comments and feedback from the community and speak to the suite of compliance opportunities for City Staff to undertake.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

24. There are no environmental or climate change impact matters related to the recommendation.

ALTERNATIVES

25. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could maintain the By-law 2004-025 with respect to registration of Two-Unit houses.

This alternative is not recommended as it does not appropriately capture the types of buildings that should capture second suites and does not reflect the intent of regulations and registration of second suites.

FINANCIAL

26. There are no financial implications for the Corporation resulting from the proposed recommendation. There is a fee to register second suites captured in the City's Fees By-law. Currently that fee is \$526.43 and is not proposed to be changed through the recommendation in this report.

LINKAGE TO 2018-2022 STRATEGIC PLAN

27. The recommendation included in this Staff Report support the following goal identified in the 2014-2018 Strategic Plan:

☒ Fostering a Safe & Healthy City

28. The registration process for second suites requires a complete inspection of the property and addresses planning, building, fire and property standards. Registration of second suites allows for safe housing options in the City at the time of registration.

Attachments Appendix A – Draft Second Suite Registration By-law

APPENDIX A

Draft Second Suite Registration By-law

BY-LAW NUMBER 2020-XXX

A By-law of the Corporation of the City of Barrie to establish a Registration By-law for Second Suites in the City of Barrie

WHEREAS section 11(2) of the Municipal Act, 2001 S.O. 201, c.25 provides that an upper-tier municipality may pass by-laws respecting, among other things, the health, safety and well-being of persons and the protection of persons and property:

AND WHEREAS the Council of the Corporation of the City of Barrie adopted motion 19-G-xxx:

NOW THEREFORE the Council of the Corporation of the City of Barrie enacts the following:

1.0 DEFINITIONS

1.1. For the purpose of this By-law:

- a) City - Means the Corporation of the City of Barrie.
- b) Dwelling Unit – except for a Boarding, Lodging, Rooming House a dwelling unit shall mean a suite operated as a housekeeping unit used or intended to be used as a domicile by 1 or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.
- c) Inspector - includes an employee of the City whose duties include the inspection(s) of buildings and the enforcement of the Ontario Building Code, the Ontario Fire Code, and the City's Zoning By-law or the City's Property Standards By-laws.
- d) Operate - means to rent, lease, license, allow, permit or endorse the occupancy of a second suite and shall include but not be limited to arrangements in the nature of sub-rentals and sub-leases.
- e) Owner - means the person in whom is vested the legal title to property and shall include, any person managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person who would receive the rent if the land and premises were let.
- f) Building Permit – means a building permit issued pursuant to the Building Code Act or any predecessor thereof.
- g) Registry – means the written or computerized public record established and maintained by the Registrar in which information is set out in respect of second suites that are registered with the City.
- h) Registrar – means the Director of Planning or a person(s) designated by the Director of Planning to carry out the duties of the Registrar.
- i) Second Suite – means a second dwelling unit on the same property that is accessory and subordinate to the principle unit and may be located in a detached accessory structure on the same property.

2.0 PROHIBITION

- 2.1. No person shall operate a second suite or permit the occupancy of a second suite unless such second suite has first been registered within the City in accordance with this By-law.

3.0 REGISTRATION PROCEDURES

- 3.1. Every owner of a house containing a second suite shall complete and submit:

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- a) A Building Permit for any new construction of a second suite, or;
 - b) When an owner can provide proof of legal non-conforming status, an application for registration in a form prescribed by the Registrar containing the following information:
 - 1) Name, address and phone number of the owner;
 - 2) Name and phone number of occupants of each unit;
 - 3) Property address, roll number and legal description;
 - 4) Permit number [if applicable] and date of first occupancy of original dwelling unit;
 - 5) Permit number [if applicable] and date of first occupancy of second dwelling unit;
 - 6) Property sketch showing dimensions of the property, location and setbacks of all buildings and location and dimensions of parking spaces; and
 - 7) Floor plan sketches showing all walls, doors, windows, stairs, kitchen facilities, bathroom facilities, heating systems and smoke alarms.
- 3.2. Every Owner shall submit payment of all applicable fees with the Registrar as set out in the City's Fee's By-law at the time of the application.
- 3.3. Every Owner shall ensure the second suite to be registered is in compliance with the standards set out in:
- a) The City's Zoning By-law as amended;
 - b) The Ontario Building Code, Ontario Regulation 403/97 as amended;
 - c) The Ontario Fire Code, Ontario Regulation 388/97 as amended; and
 - d) The City's Property Standards By-laws, as amended.
- 3.4. The Owner shall provide all information as requested and required by the Registrar for the Registrar to verify the compliance of the second suite with the City's Zoning By-law.
- 3.5. The Owner shall ensure that a second suite is inspected to confirm compliance with the standards listed in Section 3.3 of this By-law.
- a) For new constructions an inspector will be from Building Services.
 - b) For legal non-conforming units an Inspector will be from Barrie Fire and Emergency Services and Enforcement Services.
- 3.6. Where it has been determined the second suite is not in compliance with the required standards, the Owner shall make the necessary repairs to comply with the required standards and arrange for a re-inspection by the appropriate Inspectors.

4.0 DUTIES OF THE REGISTRAR

- 4.1. The Registrar shall receive applications with the appropriate information and fee for the registration of a second suite.
- 4.2. The Registrar shall determine by examination of the information submitted with an application, whether the proposed second suite is in compliance with the City's Zoning By-law, as amended.
- 4.3. The Registrar may contact the Owner to make any enquiries deemed necessary and may further require the furnishing of any information necessary to determine compliance with the City's Zoning By-law, as amended.

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- 4.4. The Registrar shall notify the Inspectors of the Barrie Fire and Emergency Services, Enforcement Services and the Building Services of every application for registration that complies with the City's Zoning By-law, as amended.
 - 4.5. Upon being notified by the Inspectors that a second suite complies with the standards listed in Section 3.3 of this By-law, the Registrar shall record the municipal address in the Registry.
 - 4.6. Upon recording a second suite in the Registry, the Registrar shall send written notice advising that the house is now registered with the City as having second suite to the following:
 - a) The Owner;
 - b) Barrie Fire and Emergency Services;
 - c) Building Services;
 - d) Environmental Services;
 - e) Alectra Utilities Corporation; and
 - f) Canada Post.
 - 4.7. A second suite will be registered by the Registrar when the Registrar is satisfied that the second suite complies with the requirements of this By-law
 - 4.8. The Registrar shall maintain and keep record of all applications and registrations for second suites including the public registry.

5.0 REFUSAL AND REVOCATION OF REGISTRATION

- 5.1. The Registrar may refuse to register any second suite if the owner has failed to comply with the requirements of this by-law.
- 5.2. A second suite, once registered, remains registered without payment of any renewal or other fees, unless the registration is revoked.
- 5.3. The Registrar may revoke the registration of any second suite which:
 - a) At any time after being registered, fails to comply with the standards set out in Section 3.3 of this By-law;
 - b) Was issued based on mistaken, false or incorrect information or documentation; or
 - c) Was issued in error.
- 5.4. Where the Registrar refuses or revokes the registration of any second suite, the Registrar shall send written notice by regular mail to the Owner of such second suite advising such Owner of the refusal or revocation and the reasons therefore. Copies of the written notice shall be provided to the parties listed in Section 4.6 of this By-law.
- 5.5. The Owner may be entitled to a partial refund of the registration fee if, upon refusal of an application, and in the opinion of the Registrar, the processing and inspection costs of the application are less than the fee paid.
- 5.6. Where the refusal or revocation is due to a contravention of the standards listed in Section 3.3, the Inspectors may take steps to enforce said regulations as they deem necessary under the respective regulations.
- 5.7. Where the Registrar revokes the registration of any second suite, the Owner may re-apply for registration once all corrective measures have been taken to come into compliance with all applicable by-laws or legislation. All fees and inspections shall be applicable.

6.0 INSPECTION PROCEDURES

- 6.1. The right of entry onto a property or into a dwelling unit shall be as authorized by the legislation respecting the standards prescribed in Section 3.3 of this By-law.
- 6.2. Except under the authority of a search warrant issued under section 439.(1) of the Municipal Act, 2001, an Inspector shall not enter or remain in any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, having first informed the occupier that the right of entry may be refused and, if refused, entry made only under the authority of a search warrant as per Subsection 437 of the Municipal Act, 2001.
- 6.3. No person shall hinder or obstruct, or attempt to hinder or obstruct, an Inspector carrying out an inspection hereunder as per Subsection 426.(1) of the Municipal Act, 2001.
- 6.4. The Inspector shall notify the Registrar when an inspection confirms the second suite appears to be in compliance with the regulations and standards under the Inspector's jurisdiction.

7.0 BY-LAW ADMINISTRATION

- 7.1. The Registrar shall be responsible for the administration of this By-law.
- 7.2. An inspector, as defined within this By-law, shall be responsible for the enforcement of this By-law.

8.0 PENALTY

- 8.1. Every person who contravenes any provision of this By-law is guilty of an offence under the provisions of the Provincial Offences Act, R.S.O 1990, c P.33, as amended, and is liable on conviction to a penalty not exceeding \$5,000, exclusive of costs, subject to the provisions of the Act.
- 8.2. Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended
- 8.3. Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 8.4. For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 8.5. For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 8.6. Notwithstanding Section 23.3.0.0.0, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.
- 8.7. If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

9.0 SCOPE

- 9.1. This By-law applies to all properties containing a second suite within the geographical boundaries of the City.

10.0 SEVERABILITY

- 10.1. In the event that any of the provisions of this By-law are deemed invalid or void, in whole or in part, by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

11.0 HEADINGS

- 11.1. The headings of sections, paragraphs, clauses and/or sentences in this By-law are inserted for ease of reference only and do not affect the interpretation of this By-law.

12.0 LEGISLATION

- 12.1. References in this By-law to legislation, including regulations and municipal by-laws, shall be deemed to include legislation as amended, including successor legislation.

13.0 REPEAL

- 13.1. That By-law 2004-025 regarding registration of two-unit houses be repealed.

14.0 SHORT TITLE

- 14.1. This By-law may be referred to as "The Second Suites Registration By-law".