



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number _____ - 2022

A By-law to require the registration of additional residential units in the City of Brampton, and to repeal By-law 87-2015, as amended

RECITALS

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 additional residential units;

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;

The City of Brampton has added policies to the City's Official Plan and Comprehensive Zoning By-law in order to comply with these *Planning Act* requirements;

Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (Municipal Act, 2001) 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;

Section 11(2) (6) of the *Municipal Act, 2001*, authorizes municipalities to pass by-laws respecting the health, safety and well-being of persons and the protection of persons and property;

Subsection 391(1) of the *Municipal Act, 2001*, provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

Subsection 429(1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for a by-law passed under the Act;

Subsection 434.1 (1) of the *Municipal Act, 2001* provides that a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under that Act.

Subsection 436(1) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

Section 444 of the *Municipal Act, 2001*, provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

The Council of The Corporation of the City of Brampton considers it important to enact a by-law to require the registration of additional residential units in the City of Brampton in order to protect persons, property and the health, safety and well-being of Brampton residents;

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

PART I – TITLE, INTERPRETATION AND SEVERABILITY

1. This By-law may be referred to as the “Additional Residential Unit (ARU) Registration By-law”.
2. This By-law applies to all property within the City of Brampton.
3.
 - (1) Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Part II of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
 - (2) Wherever a word defined in Part II of this By-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case;
 - (3) All words in this By-law importing the singular shall include the plural, and words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.

4. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

PART II – DEFINITIONS

5. For the purpose of this By-law:

“Additional Residential Unit (ARU)” means a self-contained residential dwelling unit, with its own cooking facility, sanitary facility and sleeping area, and that it is located either within the principal dwelling (Second Unit), or within an accessory building or structure (Garden Suite) on the same lot as the principal dwelling;

“By-law” means this by-law, as amended from time to time;

“City” means The Corporation of the City of Brampton or the land within the municipal boundaries of the City of Brampton, as the context requires;

“Council” means the Council of The Corporation of the City of Brampton;

“Garden Suite” means an Additional Residential Unit (ARU) accessory to a single detached, semi-detached or street townhouse dwelling unit located in a building that is detached from the principal dwelling and is located in the rear or interior side yard, and which may be freestanding or attached to a private detached garage;

“Inspector” means any one of the following Persons appointed by the City:

- (a) Chief Building Official or inspector appointed pursuant to the *Building Code Act, 1992*;
- (b) Municipal Law Enforcement Officer; or
- (c) Fire and Emergency Services inspector;

“Owner” means a Person, who is:

- (a) the registered owner of a property containing Additional Residential Units;
- (b) agent for the registered owner of a property containing Additional Residential Units; or

- (c) managing or receiving the rent of from a property containing one or more Additional Residential Units whether on the Person's own account or as agent or trustee of any other Person who would receive the rent if the land or premises were let;

"Person" includes an individual, corporation, partnership or limited liability partnership;

"Registrar" means the City's Chief Building Official or his or her designate;

"Second Unit" means an Additional Residential Unit located within a single detached, semi-detached or townhouse dwelling resulting in a Two-Unit Dwelling;

"Two-Unit Dwelling" means a single detached dwelling, semi-detached dwelling or townhouse dwelling containing one Second Unit.

PART III – PROHIBITION

- 6. No Person shall have an Additional Residential Unit (ARU) unless it has been registered in accordance with the requirements of this By-law.

PART IV – REGISTRATION

- 7. Every Person who has an ARU shall register the Two-Unit Dwelling and/or a Garden Suite as required by this By-law. Where more than one ARU is located on the same property, every person shall register each ARU separately with the City.
- 8.
 - (1) The Registrar is authorized to administer this By-law in accordance with the requirements of this By-law, including the power to register, refuse to register or revoke the registration of any ARU.
 - (2) For the purpose of section 23.2(4) of the Municipal Act, 2001, Council considers the delegation of powers to the Registrar pursuant to this By-law, including the powers to register, refuse to register and revoke the registration of ARU, to be of a minor nature.
- 9. Prior to the registration of an ARU the owner shall:
 - (1) submit a complete application for registration, together with supporting plans, documents and drawings, to the Registrar in a form prescribed by the Registrar; and
 - (2) pay a non-refundable \$200.00 registration fee for each ARU.
- 10. The Owner bears the onus of proving that an ARU meets the requirements of this By-law and any other applicable law to the Registrar's satisfaction.

11. (1) The Registrar may deem an application abandoned if all requirements of registration pursuant to this By-law have not been fulfilled to the Registrar's satisfaction within eighteen (18) months from the date that the application is submitted.
- (2) An Owner may re-apply for registration where an application has been deemed abandoned subject to the requirements of this By-law including payment of all applicable fees.
12. (1) The Registrar shall establish and maintain a record of all ARU applications filed and a registry of all Two-Unit Dwellings and Garden Suites registered pursuant to this By-law.
- (2) An ARU once registered pursuant to this By-law remains registered without payment of any renewal or other fees unless registration is revoked pursuant to section 14 of this By-law.

PART V – REFUSAL AND REVOCATION

13. (1) The Registrar may refuse to register an ARU that is not in compliance with any one or more of the following:
 - (a) the Ontario Building Code;
 - (b) the Ontario Fire Code
 - (c) the Ontario Electrical Safety Code;
 - (d) the City's Zoning By-law;
 - (e) the City's Property Standards By-law;
 - (f) this By-law; or
 - (g) any other applicable law.
- (2) Where the Registrar refuses to register an ARU based on the criteria in subsection (1), the Registrar shall provide the Owner with a Notice of Refusal to Register, which shall include a brief written explanation of the reason for refusal.
14. (1) The Registrar may revoke the registration of an ARU if:
 - (a) it was registered in whole or in part based on false information;

- (b) the Owner requests that the Registrar revoke registration because they no longer have an ARU to the Registrar's satisfaction; or
 - (c) it is not in compliance with any one or more of the following:
 - (i) the Ontario Building Code;
 - (ii) the Ontario Fire Code;
 - (iii) the Ontario Electrical Safety Code;
 - (iv) the City's Zoning By-law;
 - (v) the City's Property Standards By-law;
 - (vi) this By-law; or
 - (vii) any other applicable law.
- (2) Where the Registrar intends to revoke registration of an ARU based on the criteria in either subsections (1)(a) or (c), the Registrar shall provide the Owner with a Notice of Intention to Revoke Registration which shall include a brief written explanation of the reasons for revocation.
15. (1) The Registrar's Notice of Intention to Revoke Registration as applicable, shall be sent:
- (a) by electronic mail to the Owner's e-mail address included in the application to register; and
 - (b) in accordance with the requirements for service in Part IX of this By-law.
- (2) The Owner shall have sixty (60) days from the date of the notice to resolve the Registrar's reasons for their Intention to Revoke.
- (3) Where the Owner fails to resolve the Registrar's reasons for their Intention to Revoke to the Registrar's satisfaction in compliance with subsection 15(2), the Registrar shall provide the Owner with written confirmation of the decision to revoke registration:
- (a) by electronic mail to the Owner's e-mail address included in the application to register; and
 - (b) in accordance with the requirements for service in Part IX of this By-law.

- (4) If the Registrar has confirmed the revocation of registration of an ARU, the Owner may re-apply to register subject to complying with the requirements of this By-law including payment of applicable fees.

PART VI – INSPECTION

16. (1) An Inspector acting pursuant to this By-law may, at any reasonable time, enter and inspect any property, for the purpose of carrying out an inspection to determine whether there is compliance with any one or all of the following:
 - (a) the requirements of this By-law;
 - (b) an order made pursuant to this By-law or the Municipal Act, 2001; or
 - (c) an order made pursuant to section 431 of the Municipal Act, 2001.
- (2) An Inspector may undertake an inspection pursuant to an order issued under section 438 of the Municipal Act, 2001.
17. For the purposes of conducting an inspection, an Inspector may, in accordance with the provisions in section 436 of the Municipal Act, 2001:
 - (1) Require the production for inspection of documents or things relevant to the inspection;
 - (2) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (3) Require information from any person concerning a matter related to the inspection; and
 - (4) Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
18. An Inspector performing a duty under this By-law may be accompanied by a Person under his or her direction.
19. (1) No Person shall hinder or obstruct an inspector or attempt to hinder or obstruct an inspector who is performing a duty under this By-law; and
- (2) Any Person who provides false information to an inspector shall be deemed to have hindered or obstructed the inspector in the execution of his or her duties.

PART VII – ORDER

20. (1) Where an Inspector believes that a contravention of this By-law has occurred they may issue:
- (a) an order to discontinue the contravening activity;
 - (b) an order to correct the contravention; or,
 - (c) an order to discontinue the contravening activity and correct the contravention.
- (2) Orders issued pursuant to subsection 20(1) shall be in writing and set out:
- (a) the name of the Person who is believed to have contravened this By-law and the municipal address or the legal description of the land to which the contravention applies;
 - (b) reasonable particulars of the contravention;
 - (c) the date by which there must be compliance with the order;
 - (d) if applicable, the work to be done and the date by which the work must be done; and,
 - (e) if applicable, a statement that the City may have the work done at the expense of the owner of the property if the work is not done in compliance with the order.
- (3) An order issued under this By-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Inspector and a copy of the order may be posted on any property to which the contravention applies.
- (4) If an order is served by registered mail, the service shall be deemed to have been made five (5) days after mailing.(5) Where service cannot be carried out in accordance with subsection 63. (3), the Inspector may place a placard containing the terms of the order in a conspicuous place on the property to which the contravention applies, and the placing of the placard shall be deemed to be sufficient service of the order on the Person or persons to whom the order is directed.
- (6) Every Person who fails to comply with an order made under this section is guilty of an offence.

PART VIII – PENALTY

21. (1) Every Person who contravenes any provision of this By-law, or fails to comply with an order issued pursuant to this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and, upon conviction, is liable to a fine and such other penalties, as provided for in the *Provincial Offences Act*, S.O. 1990, c. P.33, and the *Municipal Act*, 2001, as both may be amended from time to time.
- (2) In addition to subsection (1), any Person who is charged with an offence under this by-law in accordance with Part III of the *Provincial Offences Act* and is found guilty of the offence, is liable, in addition to any other penalties:
 - (a) if an individual, to a fine of not more than \$25,000; or
 - (b) if a corporation, to a fine of not more than \$50,000.
22. If a Person is convicted of an offence pursuant this By-law, the potential for receiving an economic advantage from an Additional Residential Unit that is not registered pursuant to this By-law may be considered an aggravating factor for sentencing purposes which may attract a special fine and the maximum amount of the special fine may exceed \$100,000 or such other maximum amount permitted by the *Municipal Act*, 2001.
23. If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:
 - (1) prohibiting the continuation or repetition of the offence by the Person convicted; and
 - (2) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
24. Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under Section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer's delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than twenty-one (21) days after the date of the notice.
25. If any part of a fine for a contravention of this By-law remains unpaid after the final date specified in the notice provided under Section 69, the outstanding fine is deemed to be unpaid taxes pursuant to Section 351 of the *Municipal Act*, 2001.

PART IX – SERVICE OF DOCUMENTS

26. Service of any document other than an order, including reasons for revocation or under this By-law, shall be given in writing and may be served in any of the following ways:
- (1) by being delivered personally to the Person to whom it is addressed;
 - (3) by registered mail to the Person's last known address, which is deemed to be served on the 5th day after a copy is sent by registered mail; or
 - (4) where service is unable to be done under subsections (1) or (2), notice may be given by placing a placard containing the terms of the document in a conspicuous place on the property to which the document relates and shall be deemed to be sufficient service on the Person.

PART X – ADMINISTRATIVE PENALTIES

27. Administrative Penalties (Non-Parking) By-law 218-2019, as amended, applies to this By-law.
28. Every Person who contravenes a provision of this By-law designated in Schedule A of the Administrative Penalties (Non-Parking) By-law 218-2019, as amended, shall upon issuance of a Penalty Notice be and is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019, as amended.

PART IX – EXEMPTION

29. (1) Two-Unit Dwellings previously registered pursuant to repealed City By-laws 92-96 and 87-2015, as amended, continue to be registered under this By-law.
- (2) Two-Unit Dwellings that are considered registered pursuant to sub-section (1), will be included on the registry and may be subject to revocation of registration and required to re-apply for registration for non-compliance with law.

PART X - SCHEDULES

30. All Schedules attached to this By-law shall form part of this By-law.

PART XI – REPEAL

31. By-law 87-2015, as amended, is hereby repealed.

ENACTED and PASSED this day of , 2022.

Approved as to
form.

dd/mm/yyyy

Patrick Brown, Mayor

Approved as to
content.

dd/mm/yyyy

Peter Fay, City Clerk